

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
RC PETITION

DO NOT WRITE IN THIS SPACE

Case No.

28-RC-310256

Date Filed

January 11, 2023

**INSTRUCTIONS:** Unless e-Filed using the Agency's website, [www.nlr.gov/](http://www.nlr.gov/), submit an original of this Petition to an NLRB office in the Region in which the employer concerned is located. The petition must be accompanied by both a showing of interest (see 6b below) and a certificate of service showing service on the employer and all other parties named in the petition of: (1) the petition; (2) Statement of Position form (Form NLRB-505); and (3) Description of Representation Case Procedures (Form NLRB 4812). The showing of interest should only be filed with the NLRB and should not be served on the employer or any other party.

**1. PURPOSE OF THIS PETITION RC-CERTIFICATION OF REPRESENTATIVE** - A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees. The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.

2a. Name of Employer: Monogram Health	2b. Address(es) of Establishment(s) involved (Street and number, City, State, ZIP code) 1225 W Washington Street, Suite 120 Tempe, AZ 85281
3a. Employer Representative - Name and Title Chris Terry	3b. Address (if same as 2b - state same): same

3c. Tel. No. (480)498-4479	3d. Cell No. (602)862-8340	3e. Fax No.	3f. E-Mail Address chris.terry@monogramhealth.com
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4a. Type of Establishment (Factory, mine, wholesaler, etc.) Healthcare	4b. Principal Product or Service Kidney Health and Home Visits	5a. City and State where unit is located Yuma, AZ
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6b. Description of Unit Involved: Included: All full-time and part-time RN Care Managers and Social Worker Care Managers employed by Monogram Health in the Yuma and Tucson, Arizona area. Excluded: All other employees, office clerical employees, guards, and supervisors as defined by the National Labor Relations Act.	6a. Number of Employees in Unit 12 6b. Do a substantial number (30% or more) of the employees in the unit wish to be represented by the Petitioner? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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Check One: <input type="checkbox"/> 7a. Request for recognition as Bargaining Representative was made on (Date) _____ and Employer declined recognition on or about (Date) _____ (If no reply received, so state). <input type="checkbox"/> 7b. Petitioner is currently recognized as Bargaining Representative and desires certification under the Act
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8a. Name of Recognized or Certified Bargaining Agent (If none, so state) none	8b. Address
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8c. Tel. No.	8d. Cell No.	8e. Fax No.	8f. E-Mail Address
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8g. Affiliation, if any:	8h. Date of Recognition or Certification	8i. Expiration Date of Current or Most Recent Contract, if any (Month, Day, Year)
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9. Is there now a strike or picketing at the Employer's establishment(s) involved? <u>No</u> If so, approximately how many employees are participating? _____ (Name of Labor Organization) _____, has picketed the Employer since (Month, Day, Year) _____
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10. Organizations or individuals other than Petitioner and those named in items 8 and 9, which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in the unit described in item 5b above. (If none, so state) none
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10a. Name	10b. Address	10c. Tel. No.	10d. Cell No.	10e. Fax No.	10f. E-Mail Address
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11. Election Details: If the NLRB conducts an election in this matter, state your position with respect to any such election:	11a. Election Type <input type="checkbox"/> Manual <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail
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11b. Election Date(s): 1/17/23, or earliest possible date	11c. Election Time(s):	11d. Election Location(s):
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12a. Full Name of Petitioner (including local name and number): Arizona Care Managers Union	12b. Address (street and number, city, State and ZIP code) 4569 S Agave Ave Yuma, AZ 85365
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12c. Full name of national or international labor organization of which Petitioner is an affiliate or constituent (if none, so state): none
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12d. Tel. No. (928)366-0552	12e. Cell No.	12f. Fax No.	12g. E-Mail Address garys8108@gmail.com
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13. Representative of the Petitioner who will accept service of all papers for purposes of the representation proceeding. 13a. Name and Title: Gary Slade	13b. Address (street and number, city, State and ZIP code): 4569 S Agave Ave Yuma, AZ 85365
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13c. Tel. No. (928)366-0552	13d. Cell No.	13e. Fax No.	13f. E-Mail Address garys8108@gmail.com
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I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.

Name (Print) Gary Slade	Signature 	Title Vice President	Date 1/11/23
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WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)  
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary, however, failure to supply the information may cause the NLRB to decline to invoke its processes.



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 28  
2600 North Central Avenue  
Suite 1400  
Phoenix, AZ 85004-3099

Agency Website: [www.nlr.gov](http://www.nlr.gov)  
Telephone: (602)640-2160  
Fax: (602)640-2178



Download  
NLRB  
Mobile App

**URGENT**

January 13, 2023

[garys8108@gmail.com](mailto:garys8108@gmail.com)

Arizona Care Managers Union  
4569 South Agave Avenue  
Yuma, AZ 85365

Re: Monogram Health  
Case 28-RC-310256

Ladies and Gentlemen:

The enclosed petition that you filed with the National Labor Relations Board (NLRB) has been assigned the above case number. This letter tells you how to contact the Board agent who will be handling this matter; explains your obligation to provide the originals of the showing of interest and the requirement that you complete and serve a Responsive Statement of Position form in response to each timely filed and served Statement(s) of Position; notifies you of a hearing; describes the employer's obligation to post and distribute a Notice of Petition for Election, complete a Statement of Position and provide a voter list; requests that you provide certain information; notifies you of your right to be represented; and discusses some of our procedures including how to submit documents to the NLRB.

**Investigator:** This petition will be investigated by Field Examiner Joel E. Ruiz-Lopez whose telephone number is (602)416-4768. The Board agent will contact you shortly to discuss processing the petition. If you have any questions, please do not hesitate to call the Board agent. The Board agent may also contact you and the other party or parties to schedule a conference meeting or telephonic or video conference for some time before the close of business the day following receipt of the final Responsive Statement(s) of Position. This will give the parties sufficient time to determine if any issues can be resolved prior to hearing or if a hearing is necessary. If the agent is not available, you may contact Deputy Regional Attorney David T. Garza whose telephone number is (505)313-7216. If appropriate, the NLRB attempts to schedule an election either by agreement of the parties or by holding a hearing and then directing an election.

**Showing of Interest:** If the Showing of Interest you provided in support of your petition was submitted electronically or by fax, the original documents which constitute the Showing of

Interest containing handwritten signatures must be delivered to the Regional office within **2 business days**. If the originals are not received within that time the Region will dismiss your petition.

**Notice of Hearing:** Enclosed is a Notice of Representation Hearing to be conducted at **10:00 AM on Friday, February 3, 2023 via videoconference**, if the parties do not voluntarily agree to an election. If a hearing is necessary, the hearing will run on consecutive days until concluded unless the regional director concludes that extraordinary circumstances warrant otherwise. Before the hearing begins, we will continue to explore potential areas of agreement with the parties in order to reach an election agreement and to eliminate or limit the costs associated with formal hearings.

Upon request of a party showing good cause, the regional director may postpone the hearing. A party desiring a postponement should make the request to the regional director in writing, set forth in detail the grounds for the request, and include the positions of the other parties regarding the postponement. E-Filing the request is required. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

**Posting and Distribution of Notice:** The Employer must post the enclosed Notice of Petition for Election by **Monday, January 23, 2023**, in conspicuous places, including all places where notices to employees are customarily posted. If it customarily communicates electronically with its employees in the petitioned-for unit, it must also distribute the notice electronically to them. The Employer must maintain the posting until the petition is dismissed or withdrawn or this notice is replaced by the Notice of Election. Failure to post or distribute the notice may be grounds for setting aside the election if proper and timely objections are filed.

**Statement of Position:** In accordance with Section 102.63(b) of the Board's Rules, the Employer is required to complete the enclosed Statement of Position form, have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition by **noon Mountain Standard Time on January 26, 2023**. The Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the Employer contends that the proposed unit is inappropriate, it must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The Employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit.

**Required Responsive Statement of Position (RSOP):** In accordance with Section 102.63(b) of the Board's Rules, following timely filing and service of a Statement of Position, the petitioner is required to complete the enclosed Responsive Statement of Position form addressing issues raised in any Statement(s) of Position. The petitioner must file a complete, signed RSOP in response to all other parties' timely filed and served Statement of Position, with all required attachments, with this office and serve it on all parties named in the petition such that it is received by them by **noon Mountain Standard Time on January 31, 2023**. This form



solicits information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. **This form must be e-Filed, but unlike other e-Filed documents, will not be timely if filed on the due date but after noon Mountain Standard Time.** If you have questions about this form or would like assistance in filling out this form, please contact the Board agent named above.

*Failure to Supply Information:* Failure to supply the information requested by the RSOP form may preclude you from litigating issues under Section 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§ 102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

**Voter List:** If an election is held in this matter, the Employer must transmit to this office and to the other parties to the election, an alphabetized list of the full names and addresses of all eligible voters, including their shifts, job classifications, work locations, and other contact information including available personal email addresses and available personal home and cellular telephone numbers. Usually, the list must be furnished within 2 business days of the issuance of the Decision and Direction of Election or approval of an election agreement. The list must be electronically filed with the Region and served electronically on the other parties. To guard against potential abuse, this list may not be used for purposes other than the representation proceeding, NLRB proceedings arising from it or other related matters.

Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 days after the date when the Employer must file the voter list with the Regional Office. However, a petitioner and/or union entitled to receive the voter list may waive all or part of the

10-day period by executing Form NLRB-4483, which is available on the NLRB's website or from an NLRB office. A waiver will not be effective unless all parties who are entitled to the voter list agree to waive the same number of days.

**Information Needed Now:** Please submit to this office, as soon as possible, the following information needed to handle this matter:

- (a) The correct name of the Union as stated in its constitution or bylaws.
- (b) A copy of any existing or recently expired collective-bargaining agreements, and any amendments or extensions, or any recognition agreements covering any employees in the petitioned-for unit.
- (c) If potential voters will need notices or ballots translated into a language other than English, the names of those languages and dialects, if any.
- (d) The name and contact information for any other labor organization (union) claiming to represent or have an interest in any of the employees in the petitioned-for unit and for any employer who may be a joint employer of the employees in the proposed unit. Failure to disclose the existence of an interested party may delay the processing of the petition.

**Right to Representation:** You have the right to be represented by an attorney or other representative in any proceeding before the NLRB. In view of our policy of processing these cases expeditiously, if you wish to be represented, you should obtain representation promptly. Your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, [www.nlr.gov](http://www.nlr.gov), or from an NLRB office upon your request.

If someone contacts you about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the NLRB. Their knowledge regarding this matter was obtained only through access to information that must be made available to any member of the public under the Freedom of Information Act.

**Procedures:** Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site ([www.nlr.gov](http://www.nlr.gov)). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determinations solely based on the documents and evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the petition.

**Controlled Unclassified Information (CUI):** This National Labor Relations Board (NLRB) proceeding may contain Controlled Unclassified Information (CUI). Subsequent information in this proceeding may also constitute CUI. National Archives and Records Administration (NARA) regulations at 32 CFR Part 2002 apply to all executive branch agencies that designate or handle information that meets the standards for CUI.

\* \* \*

Information about the NLRB and our customer service standards is available on our website, [www.nlrb.gov](http://www.nlrb.gov), or from an NLRB office upon your request. We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



Cornele A. Overstreet  
Regional Director

Enclosures

1. Petition
2. Notice of Petition for Election (Form 5492)
3. Notice of Representation Hearing
4. Description of Procedures in Certification and Decertification Cases (Form 4812)
5. Statement of Position form and Commerce Questionnaire (Form 505)
6. Responsive Statement of Position (Form 506)
7. Description of Voter List Requirement after Hearing in Certification and Decertification Cases (Form 5580)

CAO/JER/acp



## National Labor Relations Board



# NOTICE OF PETITION FOR ELECTION

This notice is to inform employees that Arizona Care Managers Union has filed a petition with the National Labor Relations Board (NLRB), a Federal agency, in Case 28-RC-310256 seeking an election to become certified as the representative of the employees of Monogram Health in the unit set forth below:

**Included:** All full-time and part-time RN Care Managers and Social Worker Care Managers employed by Monogram Health in the Yuma and Tucson, Arizona area.

**Excluded:** All other employees, office clerical employees, guards, and supervisors as defined by the National Labor Relations Act.

This notice also provides you with information about your basic rights under the National Labor Relations Act, the processing of the petition, and rules to keep NLRB elections fair and honest.

## YOU HAVE THE RIGHT under Federal Law

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of your own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustments).

## PROCESSING THIS PETITION

Elections do not necessarily occur in all cases after a petition is filed. **NO FINAL DECISIONS HAVE BEEN MADE YET** regarding the appropriateness of the proposed unit or whether an election will be held in this matter. If appropriate, the NLRB will first see if the parties will enter into an election agreement that specifies the method, date, time, and location of an election and the unit of employees eligible to vote. If the parties do not enter into an election agreement, usually a hearing is held to receive evidence on the appropriateness of the unit and other issues in dispute. After a hearing, an election may be directed by the NLRB, if appropriate.

**IF AN ELECTION IS HELD**, it will be conducted by the NLRB by secret ballot and Notices of Election will be posted before the election giving complete details for voting.

# ELECTION RULES

The NLRB applies rules that are intended to keep its elections fair and honest and that result in a free choice. If agents of any party act in such a way as to interfere with your right to a free election, the election can be set aside by the NLRB. Where appropriate the NLRB provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with employees' rights and may result in setting aside the election:

- Threatening loss of jobs or benefits by an employer or a union
- Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises
- An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity
- Making campaign speeches to assembled groups of employees on company time, where attendance is mandatory, within the 24-hour period before the polls for the election first open or, if the election is conducted by mail, from the time and date the ballots are scheduled to be sent out by the Region until the time and date set for their return
- Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a union or an employer to influence their votes

Please be assured that IF AN ELECTION IS HELD, every effort will be made to protect your right to a free choice under the law. Improper conduct will not be permitted. All parties are expected to cooperate fully with the NLRB in maintaining basic principles of a fair election as required by law. The NLRB as an agency of the United States Government does not endorse any choice in the election.

For additional information about the processing of petitions, go to [www.nlr.gov](http://www.nlr.gov) or contact the NLRB at (602)640-2160.

THIS IS AN OFFICIAL GOVERNMENT NOTICE AND MUST NOT BE DEFACED BY ANYONE. IT MUST REMAIN POSTED WITH ALL PAGES SIMULTANEOUSLY VISIBLE UNTIL REPLACED BY THE NOTICE OF ELECTION OR THE PETITION IS DISMISSED OR WITHDRAWN.



## National Labor Relations Board







UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 28



<b>MONOGRAM HEALTH</b>  <b>Employer</b>  <b>and</b>  <b>ARIZONA CARE MANAGERS UNION</b>  <b>Petitioner</b>	<b>Case 28-RC-310256</b>
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**NOTICE OF REPRESENTATION HEARING**

The Petitioner filed the attached petition pursuant to Section 9(c) of the National Labor Relations Act. It appears that a question affecting commerce exists as to whether the employees in the unit described in the petition wish to be represented by a collective-bargaining representative as defined in Section 9(a) of the Act.

YOU ARE HEREBY NOTIFIED that, pursuant to Sections 3(b) and 9(c) of the Act, at 10:00 AM on **Friday, February 3, 2023** and on consecutive days thereafter until concluded via videoconference, a hearing will be conducted before a hearing officer of the National Labor Relations Board. At the hearing, the parties will have the right to appear in person or otherwise, and give testimony.

YOU ARE FURTHER NOTIFIED that, pursuant to Section 102.63(b) of the Board's Rules and Regulations, Monogram Health must complete the Statement of Position and file it and all attachments with the Regional Director and serve it on the parties listed on the petition such that is received by them by no later than **noon** Mountain Standard time on **January 26, 2023**. Following timely filing and service of a Statement of Position by Monogram Health, the Petitioner must complete its Responsive Statement of Position(s) responding to the issues raised in the Employer's and/or Union's Statement of Position and file them and all attachments with the Regional Director and serve them on the parties named in the petition such they are received by them no later than **noon** Mountain Standard on **January 31, 2023**.

Pursuant to Section 102.5 of the Board's Rules and Regulations, all documents filed in cases before the Agency must be filed by electronically submitting (E-Filing) through the Agency's website ([www.nlrb.gov](http://www.nlrb.gov)), unless the party filing the document does not have access to the means for filing electronically or filing electronically would impose an undue burden. Documents filed by means other than E-Filing must be accompanied by a statement explaining why the filing party does not have access to the means for filing electronically or filing electronically would impose an undue burden. Detailed instructions for using the NLRB's E-Filing system can be found in the [E-Filing System User Guide](#)

The Statement of Position and Responsive Statement of Position must be E-Filed but, unlike other E-Filed documents, must be filed by **noon** Mountain Standard on the due date in order to be timely. If an election agreement is signed by all parties and returned to the Regional Office before the due date of the Statement of Position, the Statement of Position and Responsive Statement of Position are not required to be filed. If an election agreement is signed by all parties and returned to the Regional office after the due date of the Statement of Position but before the due date of the Responsive Statement of Position, the Responsive Statement of Position is not required to be filed.

Dated: January 13, 2023

/s/ Cornele A. Overstreet

Cornele A. Overstreet

REGIONAL DIRECTOR

NATIONAL LABOR RELATIONS BOARD

REGION 28

2600 North Central Avenue -Suite 1400

Phoenix, AZ 85004-3099

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

<b>MONOGRAM HEALTH</b>  <b>Employer</b>  <b>and</b> <b>ARIZONA CARE MANAGERS UNION</b>  <b>Petitioner</b>	<b>Case 28-RC-310256</b>
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**AFFIDAVIT OF SERVICE OF: Petition dated January 11, 2023, Notice of Representation Hearing dated January 13, 2023, Description of Procedures in Certification and Decertification Cases (Form NLRB-4812), Notice of Petition for Election, and Statement of Position Form (Form NLRB-505).**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on January 13, 2023, I served the above documents by electronic mail upon the following persons, addressed to them at the following addresses:

Monogram Health  
1225 W Washington Street  
Tempe, AZ 85281  
chris.terry@monogramhealth.com

Arizona Care Managers Union  
4569 South Agave Avenue  
Yuma, AZ 85365  
garys8108@gmail.com

January 13, 2023

Date

ABBRA PYLE, Designated Agent of NLRB

Name

/s/ ABBRA PYLE

Signature

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD

**DESCRIPTION OF REPRESENTATION CASE PROCEDURES  
IN CERTIFICATION AND DECERTIFICATION CASES**

The National Labor Relations Act grants employees the right to bargain collectively through representatives of their own choosing and to refrain from such activity. A party may file an RC, RD or RM petition with the National Labor Relations Board (NLRB) to conduct a secret ballot election to determine whether a representative will represent, or continue to represent, a unit of employees. An **RC** petition is generally filed by a union that desires to be certified as the bargaining representative. An **RD** petition is filed by employees who seek to remove the currently recognized union as the bargaining representative. An **RM** petition is filed by an employer who seeks an election because one or more individuals or unions have sought recognition as the bargaining representative, or based on a reasonable belief supported by objective considerations that the currently recognized union has lost its majority status. This form generally describes representation case procedures in RC, RD and RM cases, also referred to as certification and decertification cases.

**Right to be Represented** – Any party to a case with the NLRB has the right to be represented by an attorney or other representative in any proceeding before the NLRB. A party wishing to have a representative appear on its behalf should have the representative complete a Notice of Appearance (Form NLRB-4701), and E-File it at [www.nlr.gov](http://www.nlr.gov) or forward it to the NLRB Regional Office handling the petition as soon as possible.

**Filing and Service of Petition** – A party filing an RC, RD or RM petition is required to serve a copy of its petition on the parties named in the petition along with this form and the Statement of Position form. The petitioner files the petition with the NLRB, together with (1) a certificate showing service of these documents on the other parties named in the petition, and (2) a showing of interest to support the petition. The showing of interest is not served on the other parties.

**Notice of Hearing** – After a petition in a certification or decertification case is filed with the NLRB, the NLRB reviews the petition, certificate of service, and the required showing of interest for sufficiency, assigns the petition a case number, and promptly sends letters to the parties notifying them of the Board agent who will be handling the case. In most cases, the letters include a Notice of Representation Hearing. Except in cases presenting unusually complex issues, this pre-election hearing is set for a date 14 business days (excluding weekends and federal holidays) from the date of service of the notice of hearing. Once the hearing begins, it will continue day to day until completed absent extraordinary circumstances. The Notice of Representation Hearing also sets the due date for filing and serving the Statement(s) of Position and the Responsive Statement of Position(s). Included with the Notice of Representation Hearing are the following: (1) copy of the petition, (2) this form, (3) Statement of Position for non-petitioning parties, (4) petitioner's Responsive Statement of Position, (5) Notice of Petition for Election, and (6) letter advising how to contact the Board agent who will be handling the case and discussing those documents.

**Hearing Postponement:** Requests to postpone the hearing are not routinely granted, but the regional director may postpone the hearing for good cause. A party wishing to request a postponement should make the request in writing and set forth in detail the grounds for the request. The request should include the positions of the other parties regarding the postponement. The request must be filed electronically ("E-Filed") on the Agency's website ([www.nlr.gov](http://www.nlr.gov)) by following the instructions on the website. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

**Statement of Position Form and List(s) of Employees** – The Statement of Position form solicits commerce and other information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. In an **RC** or **RD** case, as part of its Statement of Position form, the employer also provides a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. If the employer contends that the proposed unit is not appropriate, the employer must separately list the same information for all individuals that the employer contends must be added to the proposed unit to make it an appropriate unit, and must further indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional



form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx)

Ordinarily the Statement of Position must be filed with the Regional Office and served on the other parties such that it is received by them by noon 8 business days from the issuance of the Notice of Hearing. The regional director may postpone the due date for filing and serving the Statement of Position for good cause. The Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Statement of Position due date. If a party wishes to request both a postponement of the hearing and a postponement of the Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

**Responsive Statement of Position** – Petitioner's Responsive Statement(s) of Position solicits a response to the Statement(s) of Position filed by the other parties and further facilitates entry into election agreements or streamlines the preelection hearing. A petitioner must file a Responsive Statement of Position in response to each party's Statement of Position addressing each issue in each Statement of Position(s), if desired. In the case of an RM petition, the employer-petitioner must also provide commerce information and file and serve a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. Ordinarily, the Responsive Statement of Position must be electronically filed with the Regional Office and served on the other parties such that it is received by noon 3 business days prior to the hearing. The regional director may postpone the due date for filing and serving the Responsive Statement of Position for good cause. The Responsive Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Responsive Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Responsive Statement of Position due date. If a party wishes to request both a postponement of the hearing and a Postponement of the Responsive Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

**Posting and Distribution of Notice of Petition for Election** – Within 5 business days after service of the notice of hearing, the employer must post the Notice of Petition for Election in conspicuous places, including all places where notices to employees are customarily posted, and must also distribute it electronically to the employees in the petitioned-for unit if the employer customarily communicates with these employees electronically. The employer must maintain the posting until the petition is dismissed or withdrawn, or the Notice of Petition for Election is replaced by the Notice of Election. The employer's failure properly to post or distribute the Notice of Petition for Election may be grounds for setting aside the election if proper and timely objections are filed.

**Election Agreements** – Elections can occur either by agreement of the parties or by direction of the regional director or the Board. Three types of agreements are available: (1) a Consent Election Agreement (Form NLRB-651); (2) a Stipulated Election Agreement (Form NLRB-652); and (3) a Full Consent Agreement (Form NLRB-5509). In the Consent Election Agreement and the Stipulated Election Agreement, the parties agree on an appropriate unit and the method, date, time, and place of a secret ballot election that will be conducted by an NLRB agent. In the Consent Agreement, the parties also agree that post-election matters (election objections or determinative challenged ballots) will be resolved with finality by the regional director; whereas in the Stipulated Election Agreement, the parties agree that they may request Board review of the regional director's post-election determinations. A Full Consent Agreement provides that the regional director will make final determinations regarding all pre-election and post-election issues.

**Hearing Cancellation Based on Agreement of the Parties** – The issuance of the Notice of Representation Hearing does not mean that the matter cannot be resolved by agreement of the parties. On the contrary, the NLRB encourages prompt voluntary adjustments and the Board agent assigned to the case will work with the parties to enter into an election agreement, so the parties can avoid the time and expense of participating in a hearing.

**Hearing** – A hearing will be held unless the parties enter into an election agreement approved by the regional director or the petition is dismissed or withdrawn.

**Purpose of Hearing:** The primary purpose of a pre-election hearing is to determine if a question of representation exists. A question of representation exists if a proper petition has been filed concerning a unit

appropriate for the purpose of collective bargaining or, in the case of a decertification petition, concerning a unit in which a labor organization has been certified or is being currently recognized by the employer as the bargaining representative.

**Issues at Hearing:** Issues that might be litigated at the pre-election hearing include: jurisdiction; labor organization status; bars to elections; unit appropriateness; expanding and contracting unit issues; inclusion of professional employees with nonprofessional employees; seasonal operation; potential mixed guard/non-guard unit; and eligibility formulas. At the hearing, the timely filed Statement of Position and Responsive Statement of Position(s) will be received into evidence. The hearing officer will not receive evidence concerning any issue as to which the parties have not taken adverse positions, except for evidence regarding the Board's jurisdiction over the employer and evidence concerning any issue, such as the appropriateness of the proposed unit, as to which the regional director determines that record evidence is necessary.

**Preclusion:** At the hearing, a party will be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or Responsive Statement of Position(s) or to place in dispute in timely response to another party's Statement of Position or response, except that no party will be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. As set forth in §102.66(d) of the Board's rules, if the employer fails to timely furnish the lists of employees, the employer will be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

**Conduct of Hearing:** If held, the hearing is usually open to the public and will be conducted by a hearing officer of the NLRB. Any party has the right to appear at any hearing in person, by counsel, or by other representative, to call, examine, and cross-examine witnesses, and to introduce into the record evidence of the significant facts that support the party's contentions and are relevant to the existence of a question of representation. The hearing officer also has the power to call, examine, and cross-examine witnesses and to introduce into the record documentary and other evidence. Witnesses will be examined orally under oath. The rules of evidence prevailing in courts of law or equity shall not be controlling. Parties appearing at any hearing who have or whose witnesses have disabilities falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, should notify the regional director as soon as possible and request the necessary assistance.

**Official Record:** An official reporter will make the only official transcript of the proceedings and all citations in briefs or arguments must refer to the official record. (Copies of exhibits should be supplied to the hearing officer and other parties at the time the exhibit is offered in evidence.) All statements made at the hearing will be recorded by the official reporter while the hearing is on the record. If a party wishes to make off-the-record remarks, requests to make such remarks should be directed to the hearing officer and not to the official reporter. After the close of the hearing, any request for corrections to the record, either by stipulation or motion, should be forwarded to the regional director.

**Motions and Objections:** All motions must be in writing unless stated orally on the record at the hearing and must briefly state the relief sought and the grounds for the motion. A copy of any motion must be served immediately on the other parties to the proceeding. Motions made during the hearing are filed with the hearing officer. All other motions are filed with the regional director, except that motions made after the transfer of the record to the Board are filed with the Board. If not E-Filed, an original and two copies of written motions shall be filed. Statements of reasons in support of motions or objections should be as concise as possible. Objections shall not be deemed waived by further participation in the hearing. On appropriate request, objections may be permitted to stand to an entire line of questioning. Automatic exceptions will be allowed to all adverse rulings.

**Election Details:** Prior to the close of the hearing the hearing officer will: (1) solicit the parties' positions (but will not permit litigation) on the type, date(s), time(s), and location(s) of the election and the eligibility period; (2) solicit the name, address, email address, facsimile number, and phone number of the employer's on-site representative to whom the regional director should transmit the Notice of Election if an election is directed; (3) inform the parties that the regional director will issue a decision as soon as practicable and will immediately transmit the document to the parties and their designated representatives by email, facsimile, or by overnight mail (if neither an email address nor facsimile number was provided); and (4) inform the parties of their obligations if the director directs an election and of the time for complying with those obligations.

**Oral Argument and Briefs:** Upon request, any party is entitled to a reasonable period at the close of the hearing for oral argument, which will be included in the official transcript of the hearing. At any time before the close of the hearing, any party may file a memorandum addressing relevant issues or points of law. Post-hearing briefs shall be due within 5 business days of the close of the hearing. The hearing officer may allow up to 10 additional business days for such briefs prior to the close of hearing and for good cause. If filed, copies of the memorandum or brief shall be served on all other parties to the proceeding and a statement of such service shall be filed with the memorandum or brief. No reply brief may be filed except upon special leave of the regional director. Briefs including electronic documents, filed with the Regional Director must be formatted as double-spaced in an 8½ by 11 inch format and must be e-filed through the Board's website, [www.nlr.gov](http://www.nlr.gov).

**Regional Director Decision** - After the hearing, the regional director issues a decision directing an election, dismissing the petition or reopening the hearing. A request for review of the regional director's pre-election decision may be filed with the Board at any time after issuance of the decision until 10 business days after a final disposition of the proceeding by the regional director. Accordingly, a party need not file a request for review before the election in order to preserve its right to contest that decision after the election. Instead, a party can wait to see whether the election results have mooted the basis of an appeal. The Board will grant a request for review only where compelling reasons exist therefor.

**Voter List** – The employer must provide to the regional director and the parties named in the election agreement or direction of election a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular ("cell") telephone numbers) of all eligible voters. (In construction industry elections, unless the parties stipulate to the contrary, also eligible to vote are all employees in the unit who either (1) were employed a total of 30 working days or more within the 12 months preceding the election eligibility date or (2) had some employment in the 12 months preceding the election eligibility date and were employed 45 working days or more within the 24 months immediately preceding the election eligibility date. However, employees meeting either of those criteria who were terminated for cause or who quit voluntarily prior to the completion of the last job for which they were employed, are not eligible.) The employer must also include in a separate section of the voter list the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge or those individuals who, according to the direction of election, will be permitted to vote subject to challenge. The list of names must be alphabetized (overall or by department) and be in the same Microsoft Word file (or Microsoft Word compatible file) format as the initial lists provided with the Statement of Position form unless the parties agree to a different format or the employer certifies that it does not possess the capacity to produce the list in the required form. When feasible, the list must be filed electronically with the regional director and served electronically on the other parties named in the agreement or direction. To be timely filed and served, the voter list must be received by the regional director and the parties named in the agreement or direction respectively within 2 business days after the approval of the agreement or issuance of the direction of elections unless a longer time is specified in the agreement or direction. A certificate of service on all parties must be filed with the regional director when the voter list is filed. The employer's failure to file or serve the list within the specified time or in proper format shall be grounds for setting aside the election whenever proper and timely objections are filed. The parties shall not use the list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

**Waiver of Time to Use Voter List** – Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 calendar days after the date when the employer must file the voter list with the Regional Office. However, the parties entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483. A waiver will not be effective unless all parties who are entitled to the list agree to waive the same number of days.

**Election** – Information about the election, requirements to post and distribute the Notice of Election, and possible proceedings after the election is available from the Regional Office and will be provided to the parties when the Notice of Election is sent to the parties.

**Withdrawal or Dismissal** – If it is determined that the NLRB does not have jurisdiction or that other criteria for proceeding to an election are not met, the petitioner is offered an opportunity to withdraw the petition. If the petitioner does not withdraw the petition, the regional director will dismiss the petition and advise the petitioner of the reason for the dismissal and of the right to appeal to the Board.



## **REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A STATEMENT OF POSITION FORM**

**Completing and Filing this Form:** The Notice of Hearing indicates which parties are responsible for completing the form. If you are required to complete the form, you must have it signed by an authorized representative and file a completed copy (including all attachments) with the RD and serve copies on all parties named in the petition by the date and time established for its submission. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must EFile your Statement of Position at [www.nlrb.gov](http://www.nlrb.gov), but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed.**

***Note: Non-employer parties who complete this Statement of Position are NOT required to complete items 8f and 8g of the form, or to provide a commerce questionnaire or the lists described in item 7.***

**Required Lists:** The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx).

**Consequences of Failure to Supply Information:** Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
**STATEMENT OF POSITION**

**DO NOT WRITE IN THIS SPACE**

Case No.

28-RC-310256

Date Filed

January 11, 2023

**INSTRUCTIONS:** Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.

**Note:** Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7.

1a. Full name of party filing Statement of Position		1c. Business Phone:	1e. Fax No.:
1b. Address (Street and number, city, state, and ZIP code)		1d. Cell No.:	1f. e-Mail Address
2. Do you agree that the NLRB has jurisdiction over the Employer in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No (A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)			
3. Do you agree that the proposed unit is appropriate? <input type="checkbox"/> Yes <input type="checkbox"/> No (If not, answer 3a and 3b )			
a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards )			
b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit.			
Added		Excluded	
4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.			
5. Is there a bar to conducting an election in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, state the basis for your position.			
6. Describe all other issues you intend to raise at the pre-election hearing.			
7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at <a href="http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx">www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx</a> . (a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B) (b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be <i>added</i> to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be <i>excluded</i> from the proposed unit to make it an appropriate unit. (Attachment D)			
8a. State your position with respect to the details of any election that may be conducted in this matter. Type: <input type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail			
8b. Date(s)	8c. Time(s)	8d. Location(s)	
8e. Eligibility Period (e.g. special eligibility formula)	8f. Last Payroll Period Ending Date	8g. Length of payroll period <input type="checkbox"/> Weekly <input type="checkbox"/> Biweekly <input type="checkbox"/> Other (specify length)	
<b>9. Representative who will accept service of all papers for purposes of the representation proceeding</b>			
9a. Full name and title of authorized representative		9b. Signature of authorized representative	9c. Date
9d. Address (Street and number, city, state, and ZIP code)			9e. e-Mail Address
9f. Business Phone No.:		9g. Fax No.	9h. Cell No.

**WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)**

**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

## QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME	CASE NUMBER 28-RC-310256
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## 1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

## 2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify )

## 3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION OR FORMATION	B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES
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## 4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

## 5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

## 6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

## 7A. PRINCIPAL LOCATION:

## 7B. BRANCH LOCATIONS:

## 8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

## A. TOTAL:

## B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES \_\_\_\_\_ )

	YES	NO
A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value. \$ _____		
B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$ _____		
C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ _____		
D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ _____		
E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ _____		
H. Gross Revenues from all sales or performance of services (Check the largest amount) <input type="checkbox"/> \$100,000 <input type="checkbox"/> \$250,000 <input type="checkbox"/> \$500,000 <input type="checkbox"/> \$1,000,000 or more If less than \$100,000, indicate amount.		
I. Did you begin operations within the last 12 months? If yes, specify date: _____		

## 10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

## 11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME	TITLE	E-MAIL ADDRESS	TEL. NUMBER
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## 12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)	SIGNATURE	E-MAIL ADDRESS	DATE
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## PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

## **REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A RESPONSIVE STATEMENT OF POSITION FORM**

**Completing and Filing this Form:** For **RC and RD petitions**, the Petitioner is required to complete this form in response to each timely filed and served Statement of Position filed by another party. For **RM petitions**, the Employer-Petitioner must complete a Responsive Statement of Position form and submit the list described below. In accordance with Section 102.63(b) of the Board's Rules, if you are required to complete the form, you must have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition responding to the issues raised in another party's Statement of Position, such that it is received no later than noon three business days before the date of the hearing. A separate form must be completed for each timely filed and properly served Statement of Position you receive. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must E-File your Responsive Statement of Position at [www.NLRB.gov](http://www.NLRB.gov), but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed. Note that if you are completing this form as a PDF downloaded from [www.NLRB.gov](http://www.NLRB.gov), the form will lock upon signature and no further editing may be made.**

**Required List:** In addition to responding to the issues raised in another party's Statement of Position, if any, the Employer-Petitioner in an RM case is required to file and serve on the parties a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. This list must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the list in the required form, the list must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx)

**Consequences of Failure to Submit a Responsive Statement of Position:** Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
**RESPONSIVE STATEMENT OF POSITION – RC, RD or RM PETITION**

**DO NOT WRITE IN THIS SPACE**

Case No.  
28-RC-310256

Date Filed  
January 11, 2023

**INSTRUCTIONS:** If a party has submitted and served on you a timely Statement of Position to an RC, RD or RM petition, the Petitioner must submit this Responsive Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and any attachments on each party named in the petition in this case such that it is received by noon local time, three business days prior to the hearing date specified in the Notice of Hearing. A separate form must be completed for each timely filed and properly served Statement of Position received by the Petitioner. The Petitioner-Employer in a RM case is required to file this Responsive Statement of Position and include an appropriate employee list without regard to whether another party has filed a Statement of Position.

This Responsive Statement of Position is filed by the Petitioner in response to a Statement of Position received from the following party:

<b>The Employer</b>	<b>An Intervenor/Union</b>
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1a. Full Name of Party Filing Responsive Statement of Position			
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1c. Business Phone	1d. Cell No.	1e. Fax No.	1f. E-Mail Address
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1b. Address (Street and Number, City, State, and ZIP Code)			
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2. Identify all issues raised in the other party's Statement of Position that you dispute and describe the basis of your dispute:

**a. EMPLOYER NAME/IDENTITY** [Box 1a of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**b. JURISDICTION** [Box 2 of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**c. APPROPRIATENESS OF UNIT** [Boxes 3, 3a and 3b of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**d. INDIVIDUAL ELIGIBILITY** [Box 4 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**e. BARS TO ELECTION** [Box 5 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**f. ALL OTHER ISSUES** [Box 6 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**g. ELECTION DETAILS** [Boxes 8a, 8b, 8c, 8d, 8e, 8f, and 8g of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

Full Name and Title of Authorized Representative	Signature of Authorized Representative	Date
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**WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

**Please fill all necessary fields on the form PRIOR to digitally signing. To make changes after the form has been signed, right-click on the signature field and click "clear signature." Once complete, please sign the form.**

**UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD**

**DESCRIPTION OF VOTER LIST REQUIREMENT AFTER HEARING IN CERTIFICATION AND  
DECERTIFICATION CASES**

If an election is directed, the employer must provide the voter list. To be timely filed and served, the voter list must be *received* by the Regional Director and the parties named in the Decision and Direction of Election within 2 business days after the issuance of the Decision unless a longer period, based on extraordinary circumstances, is specified in the Decision and Direction of Election. A certificate of service on all parties must be filed with the Regional Director when the voter list is filed. The region will not serve the voter list.

**List Contents** - The list must include the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses and available home and personal cellular telephone numbers of all eligible voters). The Employer must also include in separate sections of that list the same information for those individuals the parties have agreed will be permitted to vote subject to challenge or those individuals who, according to the Decision and Direction of Election, will be permitted to vote subject to challenge.

**List Format** - The list must be in an electronic format approved by the General Counsel, unless the Employer certifies that it does not have the capacity to produce the list in the required format. Accordingly, unless otherwise agreed to by the parties, the list must be provided in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word (.doc or .docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at: **[www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx)**.

It may be appropriate for the Employer to produce multiple versions of the list where the data required is kept in separate databases or files so long as all of the lists link the information to the same employees, using the same names, in the same order and are provided within the allotted time. If the Employer provides multiple lists, the list used at the election will be the list containing the employees' names and addresses.

**Filing of the List** - The voter list must be filed electronically by submitting (E-Filing) it through the Agency's website ([www.nlr.gov](http://www.nlr.gov)), unless the Employer provides a written statement explaining why electronic submission is not possible or feasible. The Employer must also electronically serve the list on the other parties. To file electronically, go to [www.nlr.gov](http://www.nlr.gov), click on *E-File Case Documents*, and follow the detailed instructions. The burden of establishing the timely filing and receipt of the list is on the sending party. If you have questions about the submission, please promptly contact the Board agent investigating the petition.

**Service of the List** - The list must be served on the parties named in the Decision and Direction of Election within 2 business days after issuance of the Decision, unless another date has been specified. A certificate of service on all parties must be filed with the Regional Director when the voter list is filed. The Employer's failure to file or serve the list within the specified time or in proper format shall be grounds for setting aside the election whenever proper and timely objections are filed. The Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

The parties are not allowed to use the list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 28  
2600 North Central Avenue  
Suite 1400  
Phoenix, AZ 85004-3099

Agency Website: [www.nlr.gov](http://www.nlr.gov)  
Telephone: (602)640-2160  
Fax: (602)640-2178



Download  
NLRB  
Mobile App

**URGENT**

January 13, 2023

[chris.terry@monogramhealth.com](mailto:chris.terry@monogramhealth.com)

Monogram Health  
1225 West Washington Street, Suite 120  
Tempe, AZ 85281

Re: Monogram Health  
Case 28-RC-310256

Ladies and Gentlemen:

Enclosed is a copy of a petition that Arizona Care Managers Union filed with the National Labor Relations Board (NLRB) seeking to represent certain of your employees. After a petition is filed, the employer is required to promptly take certain actions so please read this letter carefully to make sure you are aware of the employer's obligations. This letter tells you how to contact the Board agent who will be handling this matter, about the requirement to post and distribute the Notice of Petition for Election, the requirement to complete and serve a Statement of Position Form, the Petitioner's requirement to complete and serve a Responsive Statement of Position Form, a scheduled hearing in this matter, other information needed including a voter list, your right to be represented, and NLRB procedures, including how to submit documents to the NLRB.

**Investigator:** This petition will be investigated by Field Examiner Joel E. Ruiz-Lopez whose telephone number is (602)416-4768. The Board agent will contact you shortly to discuss processing the petition. If you have any questions, please do not hesitate to call the Board agent. If the agent is not available, you may contact Deputy Regional Attorney David T. Garza whose telephone number is (505)313-7216. The Board agent may also contact you and the other party or parties to schedule a conference meeting or telephonic or video conference for some time before the close of business the day following receipt of the final Responsive Statement(s) of Position. This will give the parties sufficient time to determine if any issues can be resolved prior to hearing or if a hearing is necessary. If appropriate, the NLRB attempts to schedule an election either by agreement of the parties or by holding a hearing and then directing an election.

**Required Posting and Distribution of Notice:** You must post the enclosed Notice of Petition for Election by **Monday, January 23, 2023** in conspicuous places, including all places

where notices to employees are customarily posted. The Notice of Petition for Election must be posted so all pages are simultaneously visible. If you customarily communicate electronically with employees in the petitioned-for unit, you must also distribute the notice electronically to them. You must maintain the posting until the petition is dismissed or withdrawn or this notice is replaced by the Notice of Election. Posting and distribution of the Notice of Petition for Election will inform the employees whose representation is at issue and the employer of their rights and obligations under the National Labor Relations Act in the representation context. Failure to post or distribute the notice may be grounds for setting aside an election if proper and timely objections are filed.

**Required Statement of Position:** In accordance with Section 102.63(b) of the Board's Rules, the employer is required to complete the enclosed Statement of Position form (including the attached Commerce Questionnaire), have it signed by an authorized representative, and file a completed copy (with all required attachments) with this office and serve it on all parties named in the petition such that it is received by them by **noon Mountain Standard Time on January 26, 2023**. This form solicits information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. **This form must be e-Filed, but unlike other e-Filed documents, will *not* be timely if filed on the due date but after noon January 26, 2023.** If you have questions about this form or would like assistance in filling out this form, please contact the Board agent named above.

*List(s) of Employees:* The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlrb.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx)

*Failure to Supply Information:* Failure to supply the information requested by this form may preclude you from litigating issues under Section 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and



presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§ 102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

**Responsive Statement of Position:** In accordance with Section 102.63(b) of the Board's Rules, following timely filing and service of an employer's Statement of Position, the petitioner is required to complete the enclosed Responsive Statement of Position form, have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition responding to the issues raised in the employer's Statement of Position, such that it is received no later than **noon Mountain Standard Time on January 31, 2023.**

**Notice of Hearing:** Enclosed is a Notice of Representation Hearing to be conducted at **10:00 AM on Friday, February 3, 2023 via videoconference**, if the parties do not voluntarily agree to an election. If a hearing is necessary, the hearing will run on consecutive days until concluded unless the regional director concludes that extraordinary circumstances warrant otherwise. Before the hearing begins, the NLRB will continue to explore potential areas of agreement with the parties in order to reach an election agreement and to eliminate or limit the costs associated with formal hearings.

Upon request of a party showing good cause, the regional director may postpone the hearing. A party desiring a postponement should make the request to the regional director in writing, set forth in detail the grounds for the request, and include the positions of the other parties regarding the postponement. E-Filing the request is required. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

**Other Information Needed Now:** Please submit to this office, as soon as possible, the following information needed to handle this matter:

- (a) A copy of any existing or recently expired collective-bargaining agreements, and any amendments or extensions, or any recognition agreements covering any of your employees in the unit involved in the petition (the petitioned-for unit);
- (b) The name and contact information for any other labor organization (union) claiming to represent any of the employees in the petitioned-for unit;
- (c) If potential voters will need notices or ballots translated into a language other than English, the names of those languages and dialects, if any.
- (d) If you desire a formal check of the showing of interest, you must provide an alphabetized payroll list of employees in the petitioned-for unit, with their job classifications, for the payroll period immediately before the date of this petition. Such a payroll list should be submitted as early as possible prior to the hearing. Ordinarily a formal check of the showing of interest is not performed using the employee list submitted as part of the Statement of Position.

**Voter List:** If an election is held in this matter, the employer must transmit to this office and to the other parties to the election, an alphabetized list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular telephone numbers) of eligible voters. Usually, the list must be furnished within 2 business days of the issuance of the Decision and Direction of Election or approval of an election agreement. I am advising you of this requirement now, so that you will have ample time to prepare this list. The list must be electronically filed with the Region and served electronically on the other parties. To guard against potential abuse, this list may not be used for purposes other than the representation proceeding, NLRB proceedings arising from it or other related matters.

**Right to Representation:** You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, [www.nlr.gov](http://www.nlr.gov), or at the Regional office upon your request.

If someone contacts you about representing you in this case, please be assured that no organization or person seeking your business has any “inside knowledge” or favored relationship with the NLRB. Their knowledge regarding this matter was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

**Procedures:** Pursuant to Section 102.5 of the Board’s Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency’s web site ([www.nlr.gov](http://www.nlr.gov)). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determinations solely based on the documents and evidence properly submitted. All evidence

submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the petition.

**Controlled Unclassified Information (CUI):** This National Labor Relations Board (NLRB) proceeding may contain Controlled Unclassified Information (CUI). Subsequent information in this proceeding may also constitute CUI. National Archives and Records Administration (NARA) regulations at 32 CFR Part 2002 apply to all executive branch agencies that designate or handle information that meets the standards for CUI.

\* \* \*

Information about the NLRB and our customer service standards is available on our website, [www.nlrb.gov](http://www.nlrb.gov), or from an NLRB office upon your request. We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



Cornele A. Overstreet  
Regional Director

Enclosures

1. Petition
2. Notice of Petition for Election (Form 5492)
3. Notice of Representation Hearing
4. Description of Procedures in Certification and Decertification Cases (Form 4812)
5. Statement of Position form and Commerce Questionnaire (Form 505)
6. Responsive Statement of Position (Form 506)
7. Description of Voter List Requirement after Hearing in Certification and Decertification Cases (Form 5580)

CAO/JER/acp



## National Labor Relations Board



# NOTICE OF PETITION FOR ELECTION

This notice is to inform employees that Arizona Care Managers Union has filed a petition with the National Labor Relations Board (NLRB), a Federal agency, in Case 28-RC-310256 seeking an election to become certified as the representative of the employees of Monogram Health in the unit set forth below:

**Included:** All full-time and part-time RN Care Managers and Social Worker Care Managers employed by Monogram Health in the Yuma and Tucson, Arizona area.

**Excluded:** All other employees, office clerical employees, guards, and supervisors as defined by the National Labor Relations Act.

This notice also provides you with information about your basic rights under the National Labor Relations Act, the processing of the petition, and rules to keep NLRB elections fair and honest.

## YOU HAVE THE RIGHT under Federal Law

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of your own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustments).

## PROCESSING THIS PETITION

Elections do not necessarily occur in all cases after a petition is filed. **NO FINAL DECISIONS HAVE BEEN MADE YET** regarding the appropriateness of the proposed unit or whether an election will be held in this matter. If appropriate, the NLRB will first see if the parties will enter into an election agreement that specifies the method, date, time, and location of an election and the unit of employees eligible to vote. If the parties do not enter into an election agreement, usually a hearing is held to receive evidence on the appropriateness of the unit and other issues in dispute. After a hearing, an election may be directed by the NLRB, if appropriate.

**IF AN ELECTION IS HELD**, it will be conducted by the NLRB by secret ballot and Notices of Election will be posted before the election giving complete details for voting.

# ELECTION RULES

The NLRB applies rules that are intended to keep its elections fair and honest and that result in a free choice. If agents of any party act in such a way as to interfere with your right to a free election, the election can be set aside by the NLRB. Where appropriate the NLRB provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with employees' rights and may result in setting aside the election:

- Threatening loss of jobs or benefits by an employer or a union
- Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises
- An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity
- Making campaign speeches to assembled groups of employees on company time, where attendance is mandatory, within the 24-hour period before the polls for the election first open or, if the election is conducted by mail, from the time and date the ballots are scheduled to be sent out by the Region until the time and date set for their return
- Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a union or an employer to influence their votes

Please be assured that IF AN ELECTION IS HELD, every effort will be made to protect your right to a free choice under the law. Improper conduct will not be permitted. All parties are expected to cooperate fully with the NLRB in maintaining basic principles of a fair election as required by law. The NLRB as an agency of the United States Government does not endorse any choice in the election.

For additional information about the processing of petitions, go to [www.nlr.gov](http://www.nlr.gov) or contact the NLRB at (602)640-2160.

THIS IS AN OFFICIAL GOVERNMENT NOTICE AND MUST NOT BE DEFACED BY ANYONE. IT MUST REMAIN POSTED WITH ALL PAGES SIMULTANEOUSLY VISIBLE UNTIL REPLACED BY THE NOTICE OF ELECTION OR THE PETITION IS DISMISSED OR WITHDRAWN.



## National Labor Relations Board







UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 28



<b>MONOGRAM HEALTH</b>  <b>Employer</b>  <b>and</b>  <b>ARIZONA CARE MANAGERS UNION</b>  <b>Petitioner</b>	<b>Case 28-RC-310256</b>
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**NOTICE OF REPRESENTATION HEARING**

The Petitioner filed the attached petition pursuant to Section 9(c) of the National Labor Relations Act. It appears that a question affecting commerce exists as to whether the employees in the unit described in the petition wish to be represented by a collective-bargaining representative as defined in Section 9(a) of the Act.

YOU ARE HEREBY NOTIFIED that, pursuant to Sections 3(b) and 9(c) of the Act, at 10:00 AM on **Friday, February 3, 2023** and on consecutive days thereafter until concluded, via videoconference, a hearing will be conducted before a hearing officer of the National Labor Relations Board. At the hearing, the parties will have the right to appear in person or otherwise, and give testimony.

YOU ARE FURTHER NOTIFIED that, pursuant to Section 102.63(b) of the Board's Rules and Regulations, Monogram Health must complete the Statement of Position and file it and all attachments with the Regional Director and serve it on the parties listed on the petition such that is received by them by no later than **noon** Mountain Standard time on **January 26, 2023**. Following timely filing and service of a Statement of Position by Monogram Health, the Petitioner must complete its Responsive Statement of Position(s) responding to the issues raised in the Employer's and/or Union's Statement of Position and file them and all attachments with the Regional Director and serve them on the parties named in the petition such they are received by them no later than **noon** Mountain Standard on **January 31, 2023**.

Pursuant to Section 102.5 of the Board's Rules and Regulations, all documents filed in cases before the Agency must be filed by electronically submitting (E-Filing) through the Agency's website ([www.nlrb.gov](http://www.nlrb.gov)), unless the party filing the document does not have access to the means for filing electronically or filing electronically would impose an undue burden. Documents filed by means other than E-Filing must be accompanied by a statement explaining why the filing party does not have access to the means for filing electronically or filing electronically would impose an undue burden. Detailed instructions for using the NLRB's E-Filing system can be found in the [E-Filing System User Guide](#)

The Statement of Position and Responsive Statement of Position must be E-Filed but, unlike other E-Filed documents, must be filed by **noon** Mountain Standard on the due date in order to be timely. If an election agreement is signed by all parties and returned to the Regional Office before the due date of the Statement of Position, the Statement of Position and Responsive Statement of Position are not required to be filed. If an election agreement is signed by all parties and returned to the Regional office after the due date of the Statement of Position but before the due date of the Responsive Statement of Position, the Responsive Statement of Position is not required to be filed.

Dated: January 13, 2023

/s/ Cornele A. Overstreet

Cornele A. Overstreet  
REGIONAL DIRECTOR  
NATIONAL LABOR RELATIONS BOARD  
REGION 28  
2600 North Central Avenue -Suite 1400  
Phoenix, AZ 85004-3099

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

<b>MONOGRAM HEALTH</b>  <b>Employer</b>  <b>and</b> <b>ARIZONA CARE MANAGERS UNION</b>  <b>Petitioner</b>	<b>Case 28-RC-310256</b>
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**AFFIDAVIT OF SERVICE OF: Petition dated January 11, 2023, Notice of Representation Hearing dated January 13, 2023, Description of Procedures in Certification and Decertification Cases (Form NLRB-4812), Notice of Petition for Election, and Statement of Position Form (Form NLRB-505).**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on January 13, 2023, I served the above documents by electronic mail upon the following persons, addressed to them at the following addresses:

Monogram Health  
1225 W Washington Street  
Tempe, AZ 85281  
chris.terry@monogramhealth.com

Arizona Care Managers Union  
4569 South Agave Avenue  
Yuma, AZ 85365  
garys8108@gmail.com

January 13, 2023

Date

ABBRA PYLE, Designated Agent of NLRB

Name

/s/ ABBRA PYLE

Signature

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD

**DESCRIPTION OF REPRESENTATION CASE PROCEDURES  
IN CERTIFICATION AND DECERTIFICATION CASES**

The National Labor Relations Act grants employees the right to bargain collectively through representatives of their own choosing and to refrain from such activity. A party may file an RC, RD or RM petition with the National Labor Relations Board (NLRB) to conduct a secret ballot election to determine whether a representative will represent, or continue to represent, a unit of employees. An **RC** petition is generally filed by a union that desires to be certified as the bargaining representative. An **RD** petition is filed by employees who seek to remove the currently recognized union as the bargaining representative. An **RM** petition is filed by an employer who seeks an election because one or more individuals or unions have sought recognition as the bargaining representative, or based on a reasonable belief supported by objective considerations that the currently recognized union has lost its majority status. This form generally describes representation case procedures in RC, RD and RM cases, also referred to as certification and decertification cases.

**Right to be Represented** – Any party to a case with the NLRB has the right to be represented by an attorney or other representative in any proceeding before the NLRB. A party wishing to have a representative appear on its behalf should have the representative complete a Notice of Appearance (Form NLRB-4701), and E-File it at [www.nlr.gov](http://www.nlr.gov) or forward it to the NLRB Regional Office handling the petition as soon as possible.

**Filing and Service of Petition** – A party filing an RC, RD or RM petition is required to serve a copy of its petition on the parties named in the petition along with this form and the Statement of Position form. The petitioner files the petition with the NLRB, together with (1) a certificate showing service of these documents on the other parties named in the petition, and (2) a showing of interest to support the petition. The showing of interest is not served on the other parties.

**Notice of Hearing** – After a petition in a certification or decertification case is filed with the NLRB, the NLRB reviews the petition, certificate of service, and the required showing of interest for sufficiency, assigns the petition a case number, and promptly sends letters to the parties notifying them of the Board agent who will be handling the case. In most cases, the letters include a Notice of Representation Hearing. Except in cases presenting unusually complex issues, this pre-election hearing is set for a date 14 business days (excluding weekends and federal holidays) from the date of service of the notice of hearing. Once the hearing begins, it will continue day to day until completed absent extraordinary circumstances. The Notice of Representation Hearing also sets the due date for filing and serving the Statement(s) of Position and the Responsive Statement of Position(s). Included with the Notice of Representation Hearing are the following: (1) copy of the petition, (2) this form, (3) Statement of Position for non-petitioning parties, (4) petitioner's Responsive Statement of Position, (5) Notice of Petition for Election, and (6) letter advising how to contact the Board agent who will be handling the case and discussing those documents.

**Hearing Postponement:** Requests to postpone the hearing are not routinely granted, but the regional director may postpone the hearing for good cause. A party wishing to request a postponement should make the request in writing and set forth in detail the grounds for the request. The request should include the positions of the other parties regarding the postponement. The request must be filed electronically ("E-Filed") on the Agency's website ([www.nlr.gov](http://www.nlr.gov)) by following the instructions on the website. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

**Statement of Position Form and List(s) of Employees** – The Statement of Position form solicits commerce and other information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. In an **RC** or **RD** case, as part of its Statement of Position form, the employer also provides a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. If the employer contends that the proposed unit is not appropriate, the employer must separately list the same information for all individuals that the employer contends must be added to the proposed unit to make it an appropriate unit, and must further indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional

form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx)

Ordinarily the Statement of Position must be filed with the Regional Office and served on the other parties such that it is received by them by noon 8 business days from the issuance of the Notice of Hearing. The regional director may postpone the due date for filing and serving the Statement of Position for good cause. The Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Statement of Position due date. If a party wishes to request both a postponement of the hearing and a postponement of the Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

**Responsive Statement of Position** – Petitioner's Responsive Statement(s) of Position solicits a response to the Statement(s) of Position filed by the other parties and further facilitates entry into election agreements or streamlines the preelection hearing. A petitioner must file a Responsive Statement of Position in response to each party's Statement of Position addressing each issue in each Statement of Position(s), if desired. In the case of an RM petition, the employer-petitioner must also provide commerce information and file and serve a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. Ordinarily, the Responsive Statement of Position must be electronically filed with the Regional Office and served on the other parties such that it is received by noon 3 business days prior to the hearing. The regional director may postpone the due date for filing and serving the Responsive Statement of Position for good cause. The Responsive Statement of Position form must be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Responsive Statement of Position requirement are discussed on the following page under the heading "Preclusion." A request to postpone the hearing will not automatically be treated as a request for an extension of the Responsive Statement of Position due date. If a party wishes to request both a postponement of the hearing and a Postponement of the Responsive Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

**Posting and Distribution of Notice of Petition for Election** – Within 5 business days after service of the notice of hearing, the employer must post the Notice of Petition for Election in conspicuous places, including all places where notices to employees are customarily posted, and must also distribute it electronically to the employees in the petitioned-for unit if the employer customarily communicates with these employees electronically. The employer must maintain the posting until the petition is dismissed or withdrawn, or the Notice of Petition for Election is replaced by the Notice of Election. The employer's failure properly to post or distribute the Notice of Petition for Election may be grounds for setting aside the election if proper and timely objections are filed.

**Election Agreements** – Elections can occur either by agreement of the parties or by direction of the regional director or the Board. Three types of agreements are available: (1) a Consent Election Agreement (Form NLRB-651); (2) a Stipulated Election Agreement (Form NLRB-652); and (3) a Full Consent Agreement (Form NLRB-5509). In the Consent Election Agreement and the Stipulated Election Agreement, the parties agree on an appropriate unit and the method, date, time, and place of a secret ballot election that will be conducted by an NLRB agent. In the Consent Agreement, the parties also agree that post-election matters (election objections or determinative challenged ballots) will be resolved with finality by the regional director; whereas in the Stipulated Election Agreement, the parties agree that they may request Board review of the regional director's post-election determinations. A Full Consent Agreement provides that the regional director will make final determinations regarding all pre-election and post-election issues.

**Hearing Cancellation Based on Agreement of the Parties** – The issuance of the Notice of Representation Hearing does not mean that the matter cannot be resolved by agreement of the parties. On the contrary, the NLRB encourages prompt voluntary adjustments and the Board agent assigned to the case will work with the parties to enter into an election agreement, so the parties can avoid the time and expense of participating in a hearing.

**Hearing** – A hearing will be held unless the parties enter into an election agreement approved by the regional director or the petition is dismissed or withdrawn.

**Purpose of Hearing:** The primary purpose of a pre-election hearing is to determine if a question of representation exists. A question of representation exists if a proper petition has been filed concerning a unit



appropriate for the purpose of collective bargaining or, in the case of a decertification petition, concerning a unit in which a labor organization has been certified or is being currently recognized by the employer as the bargaining representative.

**Issues at Hearing:** Issues that might be litigated at the pre-election hearing include: jurisdiction; labor organization status; bars to elections; unit appropriateness; expanding and contracting unit issues; inclusion of professional employees with nonprofessional employees; seasonal operation; potential mixed guard/non-guard unit; and eligibility formulas. At the hearing, the timely filed Statement of Position and Responsive Statement of Position(s) will be received into evidence. The hearing officer will not receive evidence concerning any issue as to which the parties have not taken adverse positions, except for evidence regarding the Board's jurisdiction over the employer and evidence concerning any issue, such as the appropriateness of the proposed unit, as to which the regional director determines that record evidence is necessary.

**Preclusion:** At the hearing, a party will be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or Responsive Statement of Position(s) or to place in dispute in timely response to another party's Statement of Position or response, except that no party will be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. As set forth in §102.66(d) of the Board's rules, if the employer fails to timely furnish the lists of employees, the employer will be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

**Conduct of Hearing:** If held, the hearing is usually open to the public and will be conducted by a hearing officer of the NLRB. Any party has the right to appear at any hearing in person, by counsel, or by other representative, to call, examine, and cross-examine witnesses, and to introduce into the record evidence of the significant facts that support the party's contentions and are relevant to the existence of a question of representation. The hearing officer also has the power to call, examine, and cross-examine witnesses and to introduce into the record documentary and other evidence. Witnesses will be examined orally under oath. The rules of evidence prevailing in courts of law or equity shall not be controlling. Parties appearing at any hearing who have or whose witnesses have disabilities falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, should notify the regional director as soon as possible and request the necessary assistance.

**Official Record:** An official reporter will make the only official transcript of the proceedings and all citations in briefs or arguments must refer to the official record. (Copies of exhibits should be supplied to the hearing officer and other parties at the time the exhibit is offered in evidence.) All statements made at the hearing will be recorded by the official reporter while the hearing is on the record. If a party wishes to make off-the-record remarks, requests to make such remarks should be directed to the hearing officer and not to the official reporter. After the close of the hearing, any request for corrections to the record, either by stipulation or motion, should be forwarded to the regional director.

**Motions and Objections:** All motions must be in writing unless stated orally on the record at the hearing and must briefly state the relief sought and the grounds for the motion. A copy of any motion must be served immediately on the other parties to the proceeding. Motions made during the hearing are filed with the hearing officer. All other motions are filed with the regional director, except that motions made after the transfer of the record to the Board are filed with the Board. If not E-Filed, an original and two copies of written motions shall be filed. Statements of reasons in support of motions or objections should be as concise as possible. Objections shall not be deemed waived by further participation in the hearing. On appropriate request, objections may be permitted to stand to an entire line of questioning. Automatic exceptions will be allowed to all adverse rulings.

**Election Details:** Prior to the close of the hearing the hearing officer will: (1) solicit the parties' positions (but will not permit litigation) on the type, date(s), time(s), and location(s) of the election and the eligibility period; (2) solicit the name, address, email address, facsimile number, and phone number of the employer's on-site representative to whom the regional director should transmit the Notice of Election if an election is directed; (3) inform the parties that the regional director will issue a decision as soon as practicable and will immediately transmit the document to the parties and their designated representatives by email, facsimile, or by overnight mail (if neither an email address nor facsimile number was provided); and (4) inform the parties of their obligations if the director directs an election and of the time for complying with those obligations.

**Oral Argument and Briefs:** Upon request, any party is entitled to a reasonable period at the close of the hearing for oral argument, which will be included in the official transcript of the hearing. At any time before the close of the hearing, any party may file a memorandum addressing relevant issues or points of law. Post-hearing briefs shall be due within 5 business days of the close of the hearing. The hearing officer may allow up to 10 additional business days for such briefs prior to the close of hearing and for good cause. If filed, copies of the memorandum or brief shall be served on all other parties to the proceeding and a statement of such service shall be filed with the memorandum or brief. No reply brief may be filed except upon special leave of the regional director. Briefs including electronic documents, filed with the Regional Director must be formatted as double-spaced in an 8½ by 11 inch format and must be e-filed through the Board's website, [www.nlr.gov](http://www.nlr.gov).

**Regional Director Decision** - After the hearing, the regional director issues a decision directing an election, dismissing the petition or reopening the hearing. A request for review of the regional director's pre-election decision may be filed with the Board at any time after issuance of the decision until 10 business days after a final disposition of the proceeding by the regional director. Accordingly, a party need not file a request for review before the election in order to preserve its right to contest that decision after the election. Instead, a party can wait to see whether the election results have mooted the basis of an appeal. The Board will grant a request for review only where compelling reasons exist therefor.

**Voter List** – The employer must provide to the regional director and the parties named in the election agreement or direction of election a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular ("cell") telephone numbers) of all eligible voters. (In construction industry elections, unless the parties stipulate to the contrary, also eligible to vote are all employees in the unit who either (1) were employed a total of 30 working days or more within the 12 months preceding the election eligibility date or (2) had some employment in the 12 months preceding the election eligibility date and were employed 45 working days or more within the 24 months immediately preceding the election eligibility date. However, employees meeting either of those criteria who were terminated for cause or who quit voluntarily prior to the completion of the last job for which they were employed, are not eligible.) The employer must also include in a separate section of the voter list the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge or those individuals who, according to the direction of election, will be permitted to vote subject to challenge. The list of names must be alphabetized (overall or by department) and be in the same Microsoft Word file (or Microsoft Word compatible file) format as the initial lists provided with the Statement of Position form unless the parties agree to a different format or the employer certifies that it does not possess the capacity to produce the list in the required form. When feasible, the list must be filed electronically with the regional director and served electronically on the other parties named in the agreement or direction. To be timely filed and served, the voter list must be received by the regional director and the parties named in the agreement or direction respectively within 2 business days after the approval of the agreement or issuance of the direction of elections unless a longer time is specified in the agreement or direction. A certificate of service on all parties must be filed with the regional director when the voter list is filed. The employer's failure to file or serve the list within the specified time or in proper format shall be grounds for setting aside the election whenever proper and timely objections are filed. The parties shall not use the list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

**Waiver of Time to Use Voter List** – Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 calendar days after the date when the employer must file the voter list with the Regional Office. However, the parties entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483. A waiver will not be effective unless all parties who are entitled to the list agree to waive the same number of days.

**Election** – Information about the election, requirements to post and distribute the Notice of Election, and possible proceedings after the election is available from the Regional Office and will be provided to the parties when the Notice of Election is sent to the parties.

**Withdrawal or Dismissal** – If it is determined that the NLRB does not have jurisdiction or that other criteria for proceeding to an election are not met, the petitioner is offered an opportunity to withdraw the petition. If the petitioner does not withdraw the petition, the regional director will dismiss the petition and advise the petitioner of the reason for the dismissal and of the right to appeal to the Board.

## **REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A STATEMENT OF POSITION FORM**

**Completing and Filing this Form:** The Notice of Hearing indicates which parties are responsible for completing the form. If you are required to complete the form, you must have it signed by an authorized representative and file a completed copy (including all attachments) with the RD and serve copies on all parties named in the petition by the date and time established for its submission. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must EFile your Statement of Position at [www.nlr.gov](http://www.nlr.gov), but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed.**

**Note:** *Non-employer parties who complete this Statement of Position are NOT required to complete items 8f and 8g of the form, or to provide a commerce questionnaire or the lists described in item 7.*

**Required Lists:** The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx).

**Consequences of Failure to Supply Information:** Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
**STATEMENT OF POSITION**

**DO NOT WRITE IN THIS SPACE**

Case No.

28-RC-310256

Date Filed

January 11, 2023

**INSTRUCTIONS:** Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.

**Note:** Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7.

1a. Full name of party filing Statement of Position		1c. Business Phone:	1e. Fax No.:
1b. Address (Street and number, city, state, and ZIP code)		1d. Cell No.:	1f. e-Mail Address
2. Do you agree that the NLRB has jurisdiction over the Employer in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No (A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)			
3. Do you agree that the proposed unit is appropriate? <input type="checkbox"/> Yes <input type="checkbox"/> No (If not, answer 3a and 3b )			
a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards )			
b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit.			
Added		Excluded	
4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.			
5. Is there a bar to conducting an election in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, state the basis for your position.			
6. Describe all other issues you intend to raise at the pre-election hearing.			
7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at <a href="http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx">www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx</a> . (a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B) (b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be <i>added</i> to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be <i>excluded</i> from the proposed unit to make it an appropriate unit. (Attachment D)			
8a. State your position with respect to the details of any election that may be conducted in this matter. Type: <input type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail			
8b. Date(s)	8c. Time(s)	8d. Location(s)	
8e. Eligibility Period (e.g. special eligibility formula)	8f. Last Payroll Period Ending Date	8g. Length of payroll period <input type="checkbox"/> Weekly <input type="checkbox"/> Biweekly <input type="checkbox"/> Other (specify length)	
<b>9. Representative who will accept service of all papers for purposes of the representation proceeding</b>			
9a. Full name and title of authorized representative		9b. Signature of authorized representative	9c. Date
9d. Address (Street and number, city, state, and ZIP code)			9e. e-Mail Address
9f. Business Phone No.:		9g. Fax No.	9h. Cell No.

**WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)**

**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.



## QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME	CASE NUMBER 28-RC-310256
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## 1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

## 2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify )

## 3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION OR FORMATION	B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES
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## 4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

## 5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

## 6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

## 7A. PRINCIPAL LOCATION:

## 7B. BRANCH LOCATIONS:

## 8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

## A. TOTAL:

## B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES \_\_\_\_\_ )

	YES	NO
A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value. \$ _____		
B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$ _____		
C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ _____		
D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ _____		
E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____		
G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ _____		
H. Gross Revenues from all sales or performance of services (Check the largest amount) <input type="checkbox"/> \$100,000 <input type="checkbox"/> \$250,000 <input type="checkbox"/> \$500,000 <input type="checkbox"/> \$1,000,000 or more If less than \$100,000, indicate amount.		
I. Did you begin operations within the last 12 months? If yes, specify date: _____		

## 10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

## 11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME	TITLE	E-MAIL ADDRESS	TEL. NUMBER
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## 12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)	SIGNATURE	E-MAIL ADDRESS	DATE
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## PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

## **REVIEW THE FOLLOWING IMPORTANT INFORMATION BEFORE FILLING OUT A RESPONSIVE STATEMENT OF POSITION FORM**

**Completing and Filing this Form:** For **RC and RD petitions**, the Petitioner is required to complete this form in response to each timely filed and served Statement of Position filed by another party. For **RM petitions**, the Employer-Petitioner must complete a Responsive Statement of Position form and submit the list described below. In accordance with Section 102.63(b) of the Board's Rules, if you are required to complete the form, you must have it signed by an authorized representative, and file a completed copy with any necessary attachments, with this office and serve it on all parties named in the petition responding to the issues raised in another party's Statement of Position, such that it is received no later than noon three business days before the date of the hearing. A separate form must be completed for each timely filed and properly served Statement of Position you receive. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You must E-File your Responsive Statement of Position at [www.NLRB.gov](http://www.NLRB.gov), but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed. Note that if you are completing this form as a PDF downloaded from [www.NLRB.gov](http://www.NLRB.gov), the form will lock upon signature and no further editing may be made.**

**Required List:** In addition to responding to the issues raised in another party's Statement of Position, if any, the Employer-Petitioner in an RM case is required to file and serve on the parties a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. This list must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the list in the required form, the list must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx)

**Consequences of Failure to Submit a Responsive Statement of Position:** Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
**RESPONSIVE STATEMENT OF POSITION – RC, RD or RM PETITION**

**DO NOT WRITE IN THIS SPACE**

Case No.  
28-RC-310256

Date Filed  
January 11, 2023

**INSTRUCTIONS:** If a party has submitted and served on you a timely Statement of Position to an RC, RD or RM petition, the Petitioner must submit this Responsive Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and any attachments on each party named in the petition in this case such that it is received by noon local time, three business days prior to the hearing date specified in the Notice of Hearing. A separate form must be completed for each timely filed and properly served Statement of Position received by the Petitioner. The Petitioner-Employer in a RM case is required to file this Responsive Statement of Position and include an appropriate employee list without regard to whether another party has filed a Statement of Position.

This Responsive Statement of Position is filed by the Petitioner in response to a Statement of Position received from the following party:

**The Employer**

**An Intervenor/Union**

1a. Full Name of Party Filing Responsive Statement of Position

1c. Business Phone

1d. Cell No.

1e. Fax No.

1f. E-Mail Address

1b. Address (Street and Number, City, State, and ZIP Code)

2. Identify all issues raised in the other party's Statement of Position that you dispute and describe the basis of your dispute:

**a. EMPLOYER NAME/IDENTITY** [Box 1a of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**b. JURISDICTION** [Box 2 of Statement of Position Form NLRB-505 and Questionnaire on Commerce Information]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**c. APPROPRIATENESS OF UNIT** [Boxes 3, 3a and 3b of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**d. INDIVIDUAL ELIGIBILITY** [Box 4 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**e. BARS TO ELECTION** [Box 5 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**f. ALL OTHER ISSUES** [Box 6 of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

**g. ELECTION DETAILS** [Boxes 8a, 8b, 8c, 8d, 8e, 8f, and 8g of Statement of Position Form NLRB-505]

☐ No Dispute (no further response required) ☐ Dispute (response required below)

Response to Statement of Position:

Full Name and Title of Authorized Representative

Signature of Authorized Representative

Date

**WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

**Please fill all necessary fields on the form PRIOR to digitally signing. To make changes after the form has been signed, right-click on the signature field and click "clear signature." Once complete, please sign the form.**

**UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD**

**DESCRIPTION OF VOTER LIST REQUIREMENT AFTER HEARING IN CERTIFICATION AND  
DECERTIFICATION CASES**

If an election is directed, the employer must provide the voter list. To be timely filed and served, the voter list must be *received* by the Regional Director and the parties named in the Decision and Direction of Election within 2 business days after the issuance of the Decision unless a longer period, based on extraordinary circumstances, is specified in the Decision and Direction of Election. A certificate of service on all parties must be filed with the Regional Director when the voter list is filed. The region will not serve the voter list.

**List Contents** - The list must include the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses and available home and personal cellular telephone numbers of all eligible voters). The Employer must also include in separate sections of that list the same information for those individuals the parties have agreed will be permitted to vote subject to challenge or those individuals who, according to the Decision and Direction of Election, will be permitted to vote subject to challenge.

**List Format** - The list must be in an electronic format approved by the General Counsel, unless the Employer certifies that it does not have the capacity to produce the list in the required format. Accordingly, unless otherwise agreed to by the parties, the list must be provided in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word (.doc or .docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at: **[www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional Forms for Voter List.docx](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-4559/Optional%20Forms%20for%20Voter%20List.docx)**.

It may be appropriate for the Employer to produce multiple versions of the list where the data required is kept in separate databases or files so long as all of the lists link the information to the same employees, using the same names, in the same order and are provided within the allotted time. If the Employer provides multiple lists, the list used at the election will be the list containing the employees' names and addresses.

**Filing of the List** - The voter list must be filed electronically by submitting (E-Filing) it through the Agency's website ([www.nlr.gov](http://www.nlr.gov)), unless the Employer provides a written statement explaining why electronic submission is not possible or feasible. The Employer must also electronically serve the list on the other parties. To file electronically, go to [www.nlr.gov](http://www.nlr.gov), click on *E-File Case Documents*, and follow the detailed instructions. The burden of establishing the timely filing and receipt of the list is on the sending party. If you have questions about the submission, please promptly contact the Board agent investigating the petition.

**Service of the List** - The list must be served on the parties named in the Decision and Direction of Election within 2 business days after issuance of the Decision, unless another date has been specified. A certificate of service on all parties must be filed with the Regional Director when the voter list is filed. The Employer's failure to file or serve the list within the specified time or in proper format shall be grounds for setting aside the election whenever proper and timely objections are filed. The Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

The parties are not allowed to use the list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

Arizona Care Managers Union
and
Monogram Health

CASE 28-RC-310256

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY  
NATIONAL LABOR RELATIONS BOARD  
Washington, DC 20570

☐ GENERAL COUNSEL  
NATIONAL LABOR RELATIONS BOARD  
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF \_\_\_\_\_  
Employer Monogram Health

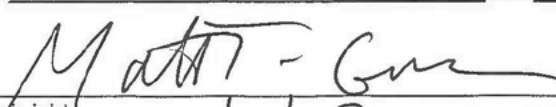
IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☒ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Matthew T. Gomes, Esq.	
MAILING ADDRESS: Weinberg, Wheeler, Hudgins, Gunn & Dial, LLC, 3344 Peachtree Road NE, Suite 2400 Atlanta, GA 30326	
E-MAIL ADDRESS: mgomes@wwhgd.com	
OFFICE TELEPHONE NUMBER: 404-832-9529	
CELL PHONE NUMBER:	FAX: 404-875-9433
SIGNATURE:  (Please sign in ink.)	
DATE: 1/20/27	

<sup>1</sup> IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.



NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

Arizona Care Managers Union
and
Monogram Health

CASE 28-RC-310256

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY  
NATIONAL LABOR RELATIONS BOARD  
Washington, DC 20570

☐ GENERAL COUNSEL  
NATIONAL LABOR RELATIONS BOARD  
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF \_\_\_\_\_  
Employer Monogram Health


IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

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(REPRESENTATIVE INFORMATION)

Stephen W. Mooney, Esq.	
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SIGNATURE:	
DATE:	(Please sign in ink) 11/20/2023

<sup>1</sup> IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

**UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
REGION 28**

MH RENAL SERVICES MSO, LLC, A	)	
SUBSIDIARY OF MONOGRAM	)	
HEALTH, INC.,	)	
	)	
Employer,	)	
	)	Case No. 28-RC-310256
and	)	
	)	
ARIZONA CARE MANAGERS UNION,	)	
	)	
Petitioner.	)	

**BRIEF ON BEHALF OF THE EMPLOYER**

COMES NOW MH Renal Services MSO, LLC, a subsidiary of Monogram Health, Inc. (“Employer”), and submits this Brief on Behalf of the Employer to the National Labor Relations Board (“NLRB” or the “Board”), Region 28, in the above-styled case wherein the petitioning union is the Arizona Care Managers Union (“Union” or “Petitioner”).

**I. STATEMENT OF THE CASE**

This proceeding arises out of an RC Petition filed by the Union under § 9(c) of the National Labor Relations Act, 29 U.S.C. § 151 et seq., as amended (the “Act” or “NLRA”) on January 11, 2023. BD Exhibit 1(a). In it, Petitioner seeks recognition as the exclusive collective bargaining representative of certain Care Managers of the Employer. Id.

Pursuant to Notice, this matter came for a hearing on February 3, 2023, before Hearing Officer Joel E. Ruiz-Lopez. The parties were given until February 17, 2023, to file briefs with the Regional Director.

**II. JURISDICTION AND BUSINESS**

The Employer is a limited liability company organized under the laws of the State of Tennessee which provides in-home healthcare to patients throughout the United States, and in

Tucson and Yuma, Arizona. BD Exhibit 3 at p. 2. Its headquarters are located in Brentwood, Tennessee. Id.

It was stipulated that the Employer is engaged in interstate commerce within the meaning of the Act and meets all jurisdictional requirements of the Board as an employer so engaged. Id.

### **III. STATUS OF THE PETITIONER AS A LABOR ORGANIZATION**

Based on evidence adduced at the hearing, the Employer withdraws its prior objections and hereby stipulates that Petitioner is a labor organization within the meaning of § 2(5) of the Act.

### **IV. QUESTION CONCERNING REPRESENTATION**

The Employer does not recognize any union as the collective bargaining representative of any of its employees and there is no history of collective bargaining with respect to the employees that Petitioner seeks to represent.

### **V. APPROPRIATE UNIT AND POSITIONS OF THE PARTIES**

Petitioner in the instant case seeks a unit limited to “[a]ll full-time and part-time RN Care Managers and Social Worker Care Managers employed by Monogram Health in the Yuma and Tucson, Arizona area” which would exclude “[a]ll other employees, office clerical employees, guards, and supervisors as defined by the National Labor Relations Act.” There are 12 nurses in the petitioned-for unit. BD Exhibit 3 at pp. 3-4.<sup>1</sup>

The Employer maintains that the unit sought by Petitioner is not an appropriate unit due to lack of geographic proximity, lack of employee interchange, and lack of functional integration.

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<sup>1</sup> At the hearing, the Union for the first time proposed that Rexann Hayes (RN Care Manager living in Pima, Arizona) and Mary Ybarra (RN Care Manager living in Stanfield, Arizona) be included in the proposed bargaining unit. Tr. 81:2-22. The Employer did not take a position on that request at the hearing. Having had an opportunity to review the facts, the Employer does not oppose either employee’s inclusion in the proposed bargaining unit. However, because Petitioner has not satisfied its burden of establishing that a multifacility unit is proper, Hayes and Ybarra should be included in the Tucson unit.

## **VI. BACKGROUND AND BUSINESS OF EMPLOYER**

The Employer provides in-home healthcare to patients throughout the United States and in Tucson and Yuma, Arizona. Tr. 45:23-46:3. Its headquarters are located in Brentwood, Tennessee. Id. at 45:21-22. Labor relations are managed out of the Brentwood headquarters. Id. at 47:3-12.

The Employer provides its services through RN (registered nurse) or social worker Care Managers who conduct in-house visits to members/patients. Id. at 53:9-56:17. The Care Manager role is a remote role; Care Managers leave their homes in the morning and go straight to patient visits, and then back home at the end of their day. Id. at 61:1-10. It is not common for employees in this position to come into the office. Id. at 61:11-15.

The Care Managers who work in Tucson and Yuma report to Market Performance Manager Kimberlee Williams. Id. at 49:14-19, 58:11-21. Williams reports to Regional Director Ashley Bauer. Id. at 49:20-22. Bauer reports to Chief Strategy Officer Sam Daniel. Id. at 49:23-25. Senior Vice President of Operations Christopher Terry, who works in Tempe (Phoenix), also reports to Daniel and supports the Employer's teams in the field in the region. Id. at 48:15-49:7, 50:1-7. Williams lives in Tucson; Bauer works in Tempe; and Daniel works out of the Brentwood office. Id. at 50:8-24. There are approximately the same number of Care Managers in Phoenix as there are in Tucson and Yuma combined. Id. at 66:1-6. There are no differences between the Tucson and Yuma Care Managers and the Phoenix Care Managers in terms of skills, training, or terms and conditions of employment. Id. at 59:8-16.

The Employer does not have different levels of Care Managers. Id. at 64:6-15. Employees are promoted from Care Manager to supervisors. Id. at 63:8-19. Seniority plays a role in merit increases. Id. at 63:22-64:5.

Upon being enrolled in the Monogram program, each patient is assigned a nurse and/or

social worker Care Manager, sometimes both. Id. at 53:15-18. The Care Manager conducts primarily in-home visits to engage the member, educate them on their chronic kidney disease or other pressing clinical concerns, help them navigate their care, and provide them with clinical care (from the nursing side) and resource assistance (from the social worker side). Id. at 53:19-25. “Ultimately, the greatest impact Monogram can make to improve the lives of each and every patient is to create mechanisms to get our Care Managers and teams directly to our patients.” Union Exhibit L Ex. 5.

Nurse Care Managers carry treatment equipment such as blood pressure cuffs, personal protective equipment, laptop computers and other equipment to facilitate documentation of the patient’s condition. Tr. 54:4-14. Care Managers use Salesforce Health Cloud to create an electronic health record (“EHR”) for all patient visits on their company laptops. Id. at 67:20-68:6. They wear company uniforms. Id. at 54:15-19.

During the initial visit, the Care Manager will introduce themselves, explain what Monogram is, and get to know the patient through a comprehensive health assessment to understand their history and their challenges. Id. at 55:9-21. Depending on the answers and information received, the Care Manager may conduct more focused assessments of the patient’s specific needs. Id. at 55:22-25. The Care Manager measures vital signs, after which he or she develops a plan of care, discusses it with the patient, and then helps them navigate through it. Id. at 55:25-56:3. Initial visits are a little bit longer than one hour. Id. at 55:3-8.

Follow-up visits are scheduled for one hour. Id. Follow-up visits focus on achieving the goals from the care plan that was established in the initial visit. Id. at 56:4-11. The Care Manager also will measure vital signs, conduct more focused assessments, and engage the patient around their priority needs as it relates to the patient’s chronic kidney disease or any other personal clinical

needs, blood pressure, diabetes, etc. Id. at 56:11-17.

Some Care Managers spend more time with their patients. Id. at 57:14-16. There is individualization between Care Managers. Id. at 57:17-19. They have the independent judgment and discretion to decide what to focus on, what to address, and how long to spend with their patients. Id. at 57:20-23. While there is a guided visit flow script for a first visit, follow-up visit, and post-hospital visit that guides the Care Managers, they do not have to follow it and there are no penalties for non-compliance. Id. at 56:18-57:13. “This flexibility is critical to the success of our mission, and to ensure we can meet the patient where they’re at in their time of need.” Union Exhibit L Ex. 5.

All Care Managers are salaried employees. Tr. 59:17-20. They are not required to record their hours worked. Id. at 59:21-24. Schedules are created in Phoenix. Id. at 65:8-25. Employees receive mileage compensation and also a monthly stipend for phone, internet, and data. Id. at 66:19-25. Care Managers submit requests for paid time off to their direct supervisor (Williams). Id. at 68:7-25.

“Cross-coverage” refers to Care Managers covering patient visits that might be in another geographic market, such as a Tucson Care Manager covering a Yuma patient or vice versa. Id. at 51:11-21. According to the Employer’s Salesforce data, Tucson and Yuma Care Managers logged 846 in-home patient visits over the last three months. Id. at 51:22-52:9. There were only five instances of cross-coverage from Yuma to Tucson, and none from Tucson to Yuma. Id. at 52:10-21. These involve day trips rather than overnight stays. Id. at 52:22-53:8.

## **VII. CONTROLLING LEGAL PRINCIPLES**

### **A. Petitioner Has Not Established That a Multifacility Unit Involving Both Tucson and Yuma Employees Is Proper**

“The presumption is in favor of petitioned-for single facility units, and the burden is on the



party opposing that unit to present evidence overcoming the presumption.” J&L Plate, 310 NLRB 429 (1993). This is because “[a] cohesive unit – one relatively free of conflicts of interest – serves the Act’s purpose of effective collective bargaining.” NLRB v. Action Automotive, Inc., 469 U.S. 490, 494 (1985). Here, Petitioner has not satisfied its burden of overcoming the presumption and establishing that a multifacility unit involving Care Managers in Tucson and Yuma is proper under the facts of this case.

“The Board does not apply a presumption in favor of finding petitioned-for multifacility units to be appropriate, and instead . . . subjects them to a multifactor community-of-interest test.” Exemplar, Inc., 363 NLRB 1500, 1501 (2016). “In determining whether a petitioned-for multifacility unit is appropriate, the Board evaluates the following factors: employees’ skills and duties; terms and conditions of employment; employee interchange; functional integration; geographic proximity; centralized control of management and supervision; and bargaining history.” Alamo Rent-A-Car, 330 NLRB 897 (2000). Application of these factors confirms that a single unit for Tucson and Yuma Care Managers is not appropriate, but rather that the Board should approve a seven-employee Tucson unit and a five-employee Yuma unit.

### **1. Geographic Proximity**

The strongest factor weighing against a multifacility unit in this case is the vast distance between the Tucson and Yuma units. The two areas are 236 miles apart, which translates to a drive of three hours and 28 minutes. See Exhibit A.<sup>2</sup>

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<sup>2</sup> The Employer respectfully submits that the Regional Director should take administrative notice of these distances pursuant to Federal Rule of Evidence 201. The NLRB has recognized that Google Maps is “a source ‘whose accuracy cannot reasonably be questioned,’ at least for determining approximate distances.” Bud Antle, Inc., 359 NLRB 1257 n. 3 (2013) (quoting Fed. R. Evid. 201(b)(2)). See also Bemis Co., 370 NLRB No. 7, slip op. at p. 39 n. 106 (2020) (“I take administrative notice of the distance between the various locations from Google maps.”); United

The geographic proximity necessary to support a multifacility unit is generally very close. See, e.g., Exemplar, 363 NLRB at 1504 (distance of 2.1 miles between two facilities in densely populated, high-traffic urban environment supported multifacility unit); Stormont-Vail Healthcare, Inc., 340 NLRB 1205, 1208 (2003) (distances of 10 to 70 miles from main facility did not warrant excluding outlying facilities from unit); Capital Coors Co., 309 NLRB 322, 325 (1992) (distance of 90 miles between facilities did not preclude finding community of interest).

Here, by contrast, the distances are substantial: 236 miles. The Employer has been unable to locate any cases in which the Board has approved a unit involving employees separated by such great distances.

Tucson is the principal city of the Tucson Metropolitan Statistical Area, while Yuma is the principal city of the Yuma Metropolitan Statistical Area. Thus, the two petitioned-for facilities do *not* share a common metropolitan statistical area. “[T]he Board has found persuasive [the fact that the petitioned-for facilities share a common metropolitan statistical area] when applying the traditional multi-facility community of interest test.” Clifford W. Perham, Inc., Case 01-RC-191238, slip op. at p. 1 n. 1 (2018) (citing Drug Fair-Cnty. Drug Co., 180 NLRB 525, 526-527 (1969)). In Drug Fair, the Board observed that employees in the same metropolitan statistical area “presumably shar[e] and fac[e] those needs and problems peculiar to such a community, and enjoy[ ] a large measure of economic and environmental integration.” 180 NLRB at 527. The absence of those interests – as evidenced by the fact that Tucson and Yuma are separate and distinct

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Site Servs. of Cal., Inc., 369 NLRB No. 137, slip op. at 5 n. 24 (2020) (“We take administrative notice that Reno is located approximately 192 miles from Benicia. The distance is taken from Google Maps.”); RAV Truck & Trailer Repairs, Inc., 369 NLRB No. 36, slip op. at p. 4 n. 5 (2020) (“I take administrative notice that Hollers Avenue and 3771 Merritt Avenue are less than 0.5 miles apart based upon directions obtained from Google Maps.”); International Union of Operating Eng’rs Local 181, 365 NLRB No. 6, slip op. at p. 2 n. 1 (2017) (“I take administrative notice of this fact, based on Google Maps.”).

statistical areas – provides further support for the conclusion that the employees in these two different statistical metropolitan areas do not share a sufficient community of interests.

Moreover, approximately the same number of Care Managers are employed in Phoenix as in Tucson and Yuma combined. Tr. 66:1-6. However, Petitioner does not seek to represent the Phoenix Care Managers. Id. at 69:7-11. Phoenix is much closer to Tucson and Yuma than those two cities are to each other. See Exhibits B, C.

When it rejects multifacility units, the Board frequently relies on the fact that the petitioner excluded other, closer employees. For instance, in Bashas', Inc., 337 NLRB 710, 711 (2002), the Board found it “significant that the unit here fails to include the Employer’s close by Casa Grande store. Located in the county adjacent to Maricopa County, the Casa Grande store is only 32 miles from Chandler and is part of the same ‘metropolitan statistical area’ as Maricopa County” (footnote omitted).

Similarly, in Laboratory Corp., 341 NLRB 1079, 1083 (2004), the Board concluded that the regional director improperly relied on geographic proximity where the excluded locations were within 25 miles of most if not all of the proposed multifacility locations. “Instead of supporting a separate unit, we believe that the proximity of the excluded PSCs supports a finding that the petitioned-for unit is not appropriate.” Id. The Employer respectfully submits that an identical conclusion is required in the instant case.<sup>3</sup>

## **2. Employee Interchange**

“Interchange occurs where a portion of the work force of one facility is involved in the work of the facilities through temporary transfer or assignment of work.” AT&T Mobility Servs.,

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<sup>3</sup> Pima is more than five hours’ drive from Yuma (but only two hours’ drive from Tucson), compare Exhibits D and E; and Stanfield is more than two hours’ drive from Yuma (but just a one-hour drive from Tucson), Exhibits F and G. The Employer therefore believes that RN Care Managers Rexann Hayes and Mary Ybarra (see footnote 1) should be included in the Tucson unit.

LLC, 371 NLRB No. 14, slip op. at p. 11 (2021).

It is undisputed that over the last three months, Tucson and Yuma Care Managers logged 846 in-home patient visits. Id. at 51:22-52:9. There were only five (5) instances of cross-coverage from Yuma to Tucson, and none from Tucson to Yuma. Id. at 52:10-21. In short, just one-half of one percent of all patient visits involved cross-coverage between Tucson and Yuma. This conclusively refutes any allegation of substantial employee interchange.

a. **The Regional Director Should Not Consider Inadmissible Documents Proffered by Petitioner to Attempt to Rebut the Absence of Employee Interchange**

Petitioner may claim that older records show that there may have been more interchange in the past. Preliminarily, Petitioner failed to lay a proper foundation authenticating many of its proffered exhibits. “Fed. R. Evid. 901 requires that evidence be authenticated as a condition precedent to admissibility.” Washington Fruit & Produce Co., Case 19-CA-25404, 2000 WL 33665596 (NLRB Div. of Judges Dec. 29, 2000). “To authenticate, the proponent shows sufficient evidence to demonstrate that the item in question is what the proponent says it is.” H&M Int’l Transp., Inc., Case 05-CA-241380, slip op. at p. 53, 2021 WL 3879421 (NLRB Div. of Judges Aug. 27, 2021). Petitioner did not do so. Indeed, this task is impossible with many of Petitioner’s proffered exhibits as potentially identifying characteristics have been redacted.

Moreover, even if the documents could be authenticated, the statements in many of these exhibits are inadmissible hearsay, i.e., statements made by the declarant not while testifying at the hearing on February 3, 2023, and offered in evidence to prove the truth of the matter asserted. See Stahl Specialty Co., 364 NLRB 635, 641 (2016) (“Their testimony about Harrison’s statements to them is hearsay because it is offered ‘to prove the truth of the matter asserted in the statement.’”) (quoting Fed. R. Evid. 801(c)). Petitioner’s failure to offer the testimony of the authors renders them inadmissible hearsay. See Endurance Envtl. Sols., LLC, Case No. 09-CA-273873, slip op.

at p. 5, 2022 WL 393229 (NLRB Div. of Judges Feb. 8, 2022) (“Ruckert did not testify and so the email statement relied upon by the Respondent is hearsay and would generally be inadmissible to prove that Ruckert reached out to a business agent.”).

**b. Older Evidence Proffered by Petitioner Is Less Probative Than the Employer’s More Recent, Detailed Statistical Evidence Establishing the Absence of Employee Interchange**

To the extent that any evidence proffered by Petitioner is authenticated, is not hearsay, and is admissible, it still is not probative. Petitioner’s evidence dates back many months ago. By contrast, the Employer offered evidence of the *current* situation of the Care Managers. This newer, more recent evidence is far more compelling and persuasive.

“[C]ommon sense dictates that the older such evidence is, the less probative it becomes for present purposes.” Glover v. Oppleman, 178 F. Supp. 2d 622, 632 (W.D. Va. 2001). See also Snyder’s Lance, Inc. v. Frito-Lay N. Am., Inc., 542 F. Supp. 3d 371, 385 n. 16 (W.D.N.C. 2021) (noting that “more recent evidence would likely be more probative than earlier evidence”); Lavigne v. Safeco Ins. Co., No. 3:17-cv-167-J-20PDB, 2018 WL 8244609, at \*3 (M.D. Fla. May 25, 2018) (noting that “the older the document the less relevant it is”); Quigg v. Barnhart, Civ. No. 03-472 ACT, 2004 WL 7338141, at \*3 (D.N.M. Mar. 24, 2004) (holding that “the ALJ did not err by giving greater emphasis to the more recent evidence as it was more probative of the issue before the ALJ”); Lust v. Sealy, Inc., 277 F. Supp. 2d 973, 984 (W.D. Wis. 2003) (“Of course, the older and more tangentially related the comment is, the less probative value it has.”); Turley v. Sullivan, 939 F.2d 524, 527-28 (8th Cir. 1991) (“Accordingly, the ALJ did not err by giving greater emphasis to the more recent evidence as it was more probative of the issue before the ALJ.”).

The current level of employee interchange, again, reflects that there is very little cross-coverage between Yuma and Tucson: five out of 846 patient visits (0.59%). This minimal level of interchange is insufficient to satisfy this important factor. Rather, it is much more similar to the

situation in Alamo, wherein the Board rejected the argument that a temporary transfer months before when one office first opened was sufficient to support a multifacility unit:

Regarding employee interchange, the only example in the record of a temporary transfer between the petitioned-for facilities is the temporary assignment of Burlingame service agent Danny Elvena to the SFO office, which occurred when the SFO office first opened. The record shows no other evidence of temporary employee transfers, and there is no indication that the Employer regularly utilizes a system of temporary transfers, floaters, or rotation of employees between the two facilities, or indeed, among any of its facilities. Thus, contrary to the Acting Regional Director, analysis of this factor does not support a finding that the two-facility unit is appropriate.

Alamo, 330 NLRB at 898. Similar facts in the instant case require the same conclusion.

### **3. Functional Integration**

“Functional integration refers to when employees at two or more facilities are closely integrated with one another functionally, notwithstanding their physical separation.” AT&T Mobility, 371 NLRB No. 14, slip op. at p. 12 (citing Budget Rent A Car Sys., 337 NLRB 884 (2002)). The evidence adduced at the hearing establishes that Tucson and Yuma Care Managers are not closely integrated with one another functionally.

As noted above, it is undisputed that during the most relevant time period (the last three months), Tucson and Yuma Care Managers logged 846 in-home patient visits. Tr. 51:22-52:9. There were only five instances of cross-coverage from Yuma to Tucson, and none from Tucson to Yuma. Id. at 52:10-21. Older evidence is not probative to establish what the petitioned-for workers’ current terms and conditions are.

Senior Vice President of Operations Christopher Terry testified that there is very little interchange between Phoenix Care Managers and those in Tucson or Yuma. Id. at 67:1-9. “The Board has generally been disinclined to find a multifacility single unit appropriate when the petitioned-for facilities have no more functional interchange with each other than they do with the excluded facilities.” AT&T Mobility Servs., 371 NLRB No. 14, slip op. at p. 12. Under these



circumstances, Petitioner has not satisfied its burden of establishing the propriety of a multifacility unit based on this factor.

#### **4. Employees' Skills and Duties**

“The similarities or dissimilarities of work, qualifications, working conditions, wages and benefits between employees has some bearing on determining the appropriateness of the single-facility unit. However, this factor is less important than whether individual facility management has autonomy and whether there is substantial interchange.” AT&T Mobility Servs., 371 NLRB No. 14, slip op. at p. 10 (citing Dattco, Inc., 338 NLRB 49, 51 (2002)).

It is undisputed that there is no difference between the Tucson and Yuma Care Managers and the Phoenix Care Managers. Tr. 59:8-16. The Board frequently rejects petitioned-for units where, as here, excluded employees have identical skills and duties. As it noted in Bashas', 337 NLRB at 711, “[w]hile they share common skills, duties, and similar terms and conditions of employment, so do the employees in all Food City stores.” See also Sleepy's, Inc., 355 NLRB 132, 134 (2010) (“While we recognize that the employees who work at the 32 stores perform the same work, use the same skills, and enjoy identical terms and conditions of employment, the Regional Director acknowledged that employees at the Employer’s stores *outside* the proposed unit also perform the same work, use the same skills, and enjoy the same terms and conditions of employment.”) (emphasis in original); Clarian Health Partners, Inc., 344 NLRB 332, 335 (2005) (“While employees in the unit the Regional Director found appropriate share similar skills and duties, so do the excluded employees.”).

Thus, this factor does not support a finding that the proposed multifacility unit is appropriate.

#### **5. Terms and Conditions of Employment**

The same is true with regard to terms and conditions of employment. The Tucson and

Yuma Care Managers admittedly have the same terms and conditions of employment. Tr. 59:8-16. However, both groups have the same terms and conditions of employment as the Phoenix Care Managers. Id.

This factor does not support a multifacility unit where, as here, excluded employees have the same terms and conditions of employment as the petitioned-for workers. See, e.g., Sleepy's, 355 NLRB at 134 (“While we recognize that the employees who work at the 32 stores perform the same work, use the same skills, and enjoy identical terms and conditions of employment, the Regional Director acknowledged that employees at the Employer’s stores *outside* the proposed unit also perform the same work, use the same skills, and enjoy the same terms and conditions of employment.”) (emphasis in original); Bashas’, 337 NLRB at 711 (“While they share common skills, duties, and similar terms and conditions of employment, so do the employees in all Food City stores.”).

Thus, this factor, too, does not support a finding that the proposed multifacility unit is appropriate.

#### **6. Centralized Control of Management and Supervision**

The Employer acknowledges that it exercises centralized control of management and supervision over the Tucson and Yuma Care Managers. Tr. 48:15-49:7, 49:14-25, 50:1-24, 58:11-21, at 65:8-25. Yet this is also true of the Phoenix Care Managers whom Petitioner seeks to exclude. Id.

The Board has relied on this fact to reject proposed multifacility units. “While employees in the [proposed] unit . . . are subject to common labor relations policies and centralized management, so are employees excluded from the unit.” Clarian Health Partners, 344 NLRB at 335. See also Bashas’, 337 NLRB at 711 (“While the employees in the unit found appropriate are subject to common labor relations policies and centralized management, so are all the Food City

store employees.”).

As a result, the Employer respectfully submits that this factor, like the previous factors, is not sufficient to overcome the single-facility presumption. In this case, that presumption is that Tucson Care Managers and Yuma Care Managers should be separate units. A revised voter list including Rexann Hayes and Mary Ybarra is attached hereto as Exhibit H.

**7. Bargaining History**

There is no bargaining history. Accordingly, that factor weighs neither for nor against the appropriateness of the petitioned-for unit.

Respectfully submitted this 17th day of February, 2023.

WEINBERG, WHEELER,  
HUDGINS, GUNN & DIAL, LLC

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**CERTIFICATE OF SERVICE**

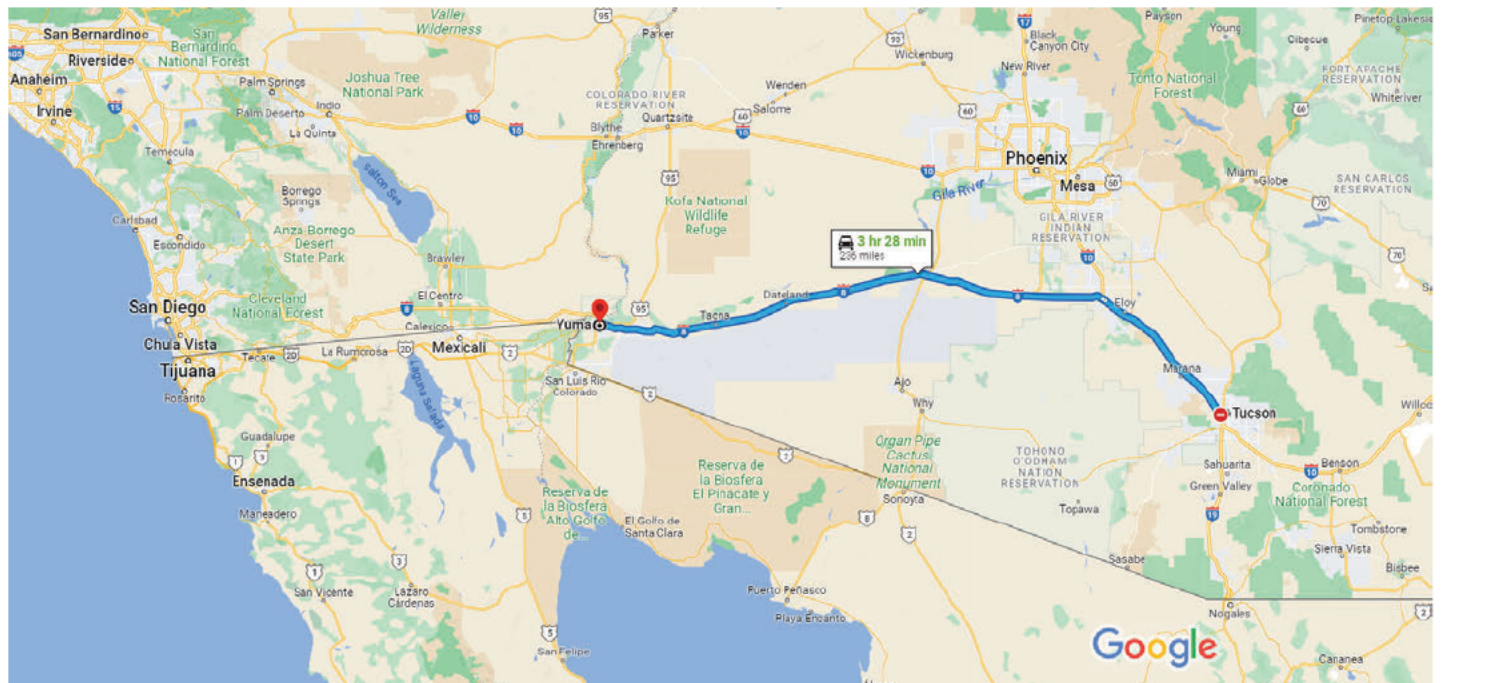
I HEREBY CERTIFY that a copy of the foregoing Brief on Behalf of the Employer has been served on the Union/Petitioner, via email and certified U.S. Mail, postage prepaid, addressed as follows:

Gary Slade  
4659 S. Agave Avenue  
Yuma, AZ 85365


This 17th day of February, 2023.

/s/ Matthew T. Gomes, Esq.

# EXHIBIT A



Map data ©2023 Google, INEGI 20 mi

 via I-8 W

3 hr 28 min

236 miles

Fastest route now, avoids road closure on N Freeway

Explore Yuma

Restaurants   Hotels   Gas stations   Parking Lots   More

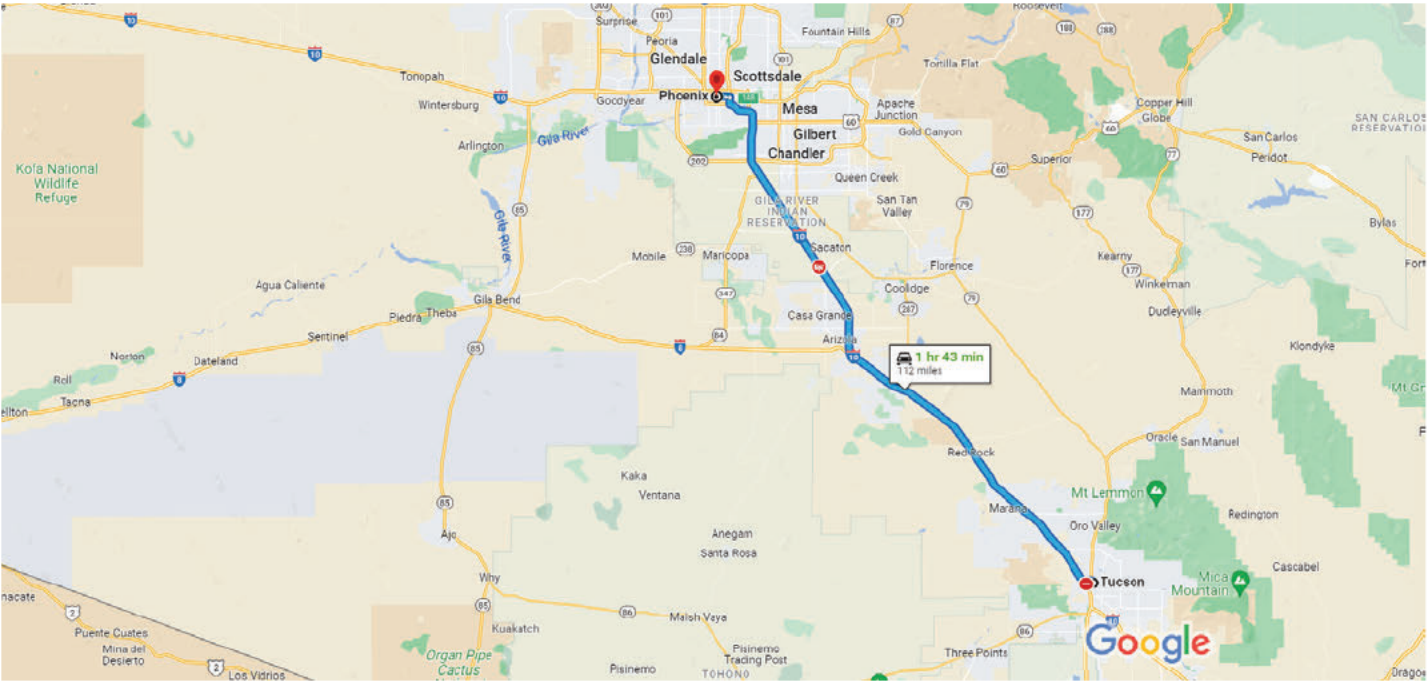


# EXHIBIT B



Tucson, Arizona to Phoenix, Arizona

Drive 112 miles, 1 hr 43 min



Map data ©2023 Google, INEGI 10 mi



via I-10 W

1 hr 43 min

Fastest route now, avoids road closure on N Freeway

112 miles

Explore Phoenix

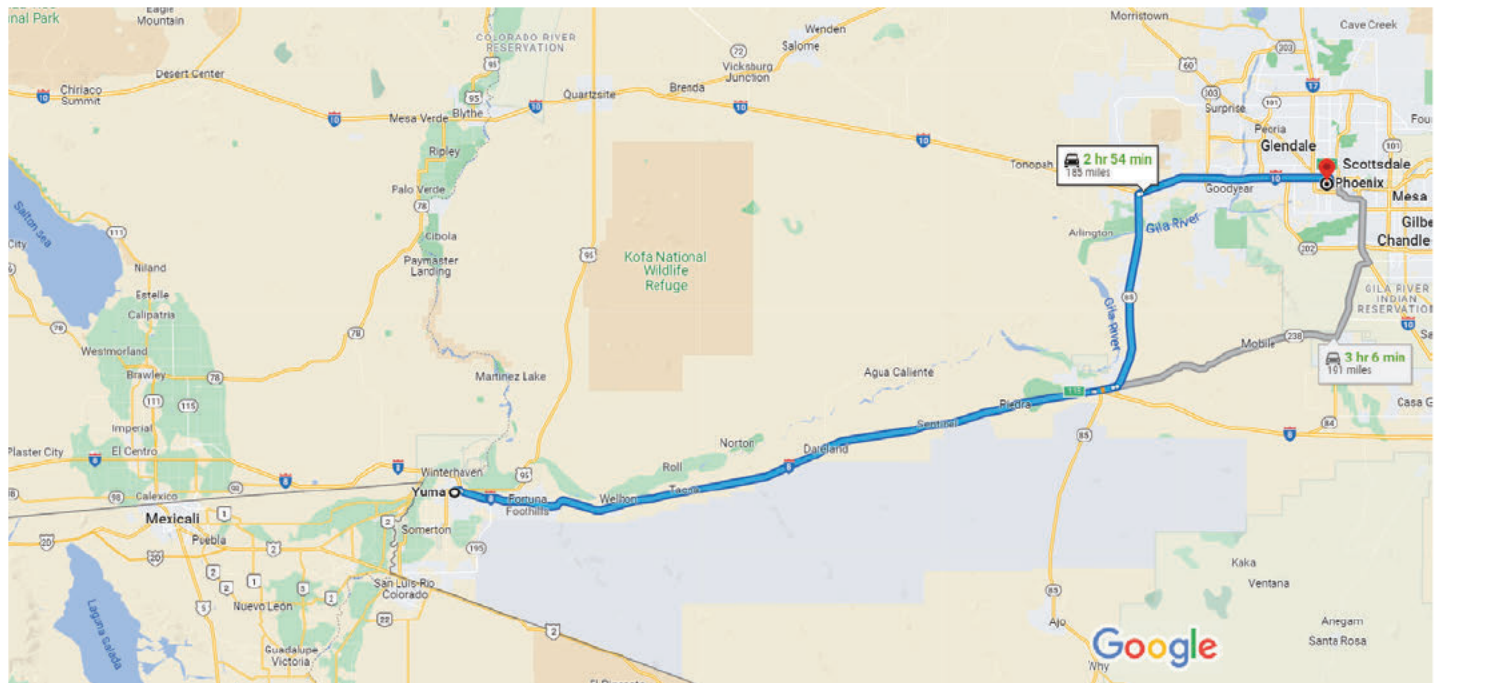
Restaurants Hotels Gas stations Parking Lots More

# EXHIBIT C

Google Maps

Yuma, Arizona to Phoenix, Arizona

Drive 185 miles, 2 hr 54 min



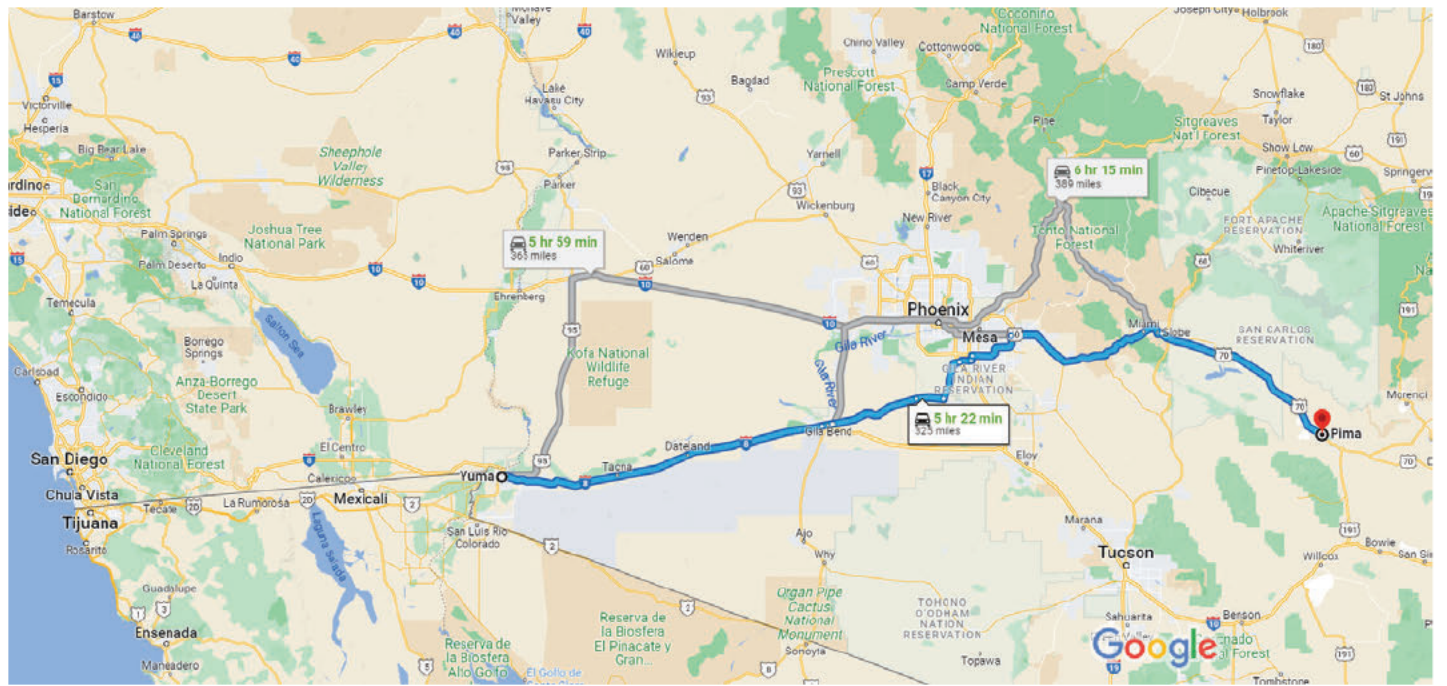
Map data ©2023 Google, INEGI 10 mi

	<b>via I-8 E</b>	<b>2 hr 54 min</b>
	Fastest route now due to traffic conditions	185 miles
	<b>via I-8 E and W Maricopa Rd</b>	<b>3 hr 6 min</b>
		191 miles




Explore Phoenix

Restaurants   Hotels   Gas stations   Parking Lots   More

# EXHIBIT D



Map data ©2023 Google, INEGI 20 mi

	<b>via I-8 E</b> Fastest route now due to traffic conditions	<b>5 hr 22 min</b> 325 miles
	<b>via I-10 E</b>	<b>5 hr 59 min</b> 365 miles
	<b>via I-8 E and US-70 E</b>	<b>6 hr 15 min</b> 389 miles

Explore Pima

Restaurants   Hotels   Gas stations   Parking Lots   More

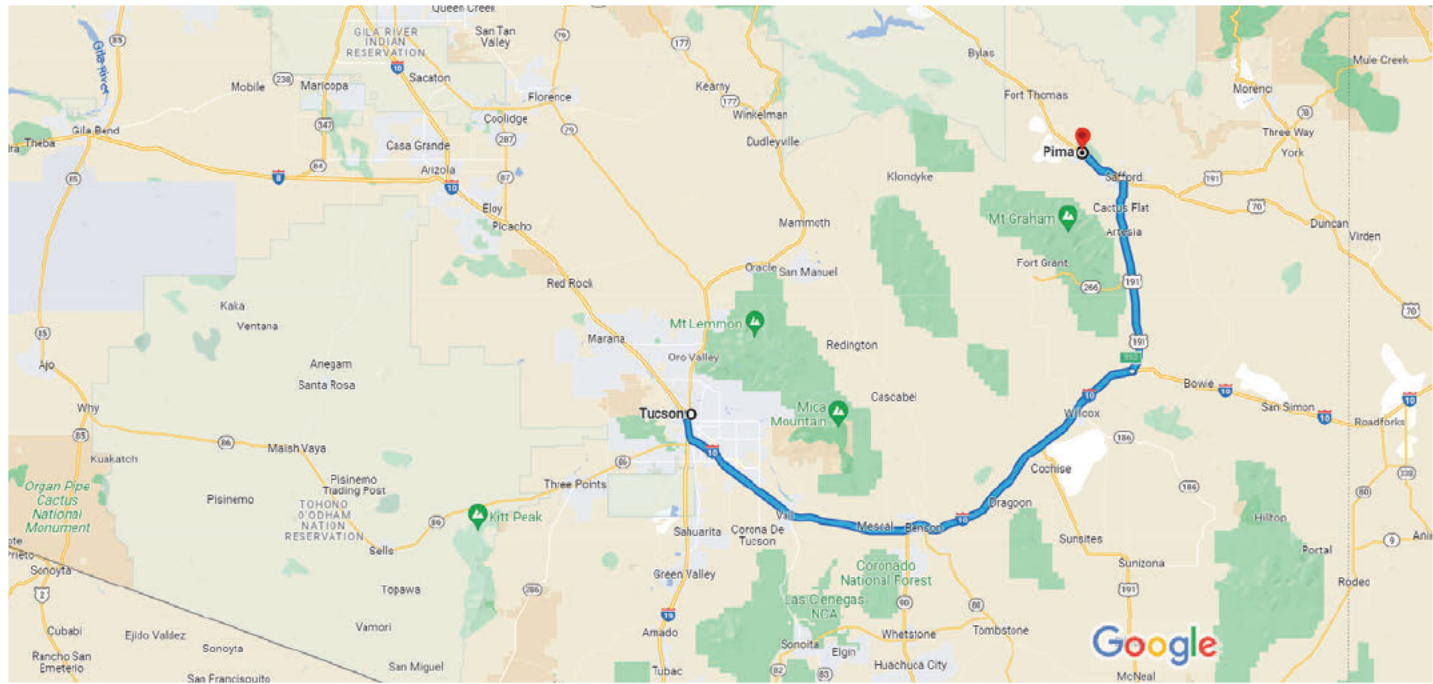


# EXHIBIT E


Google Maps

Tucson, Arizona to Pima, Arizona 85543

Drive 140 miles, 2 hr 17 min



Map data ©2023 Google, INEGI 10 mi

 via I-10 E

2 hr 17 min

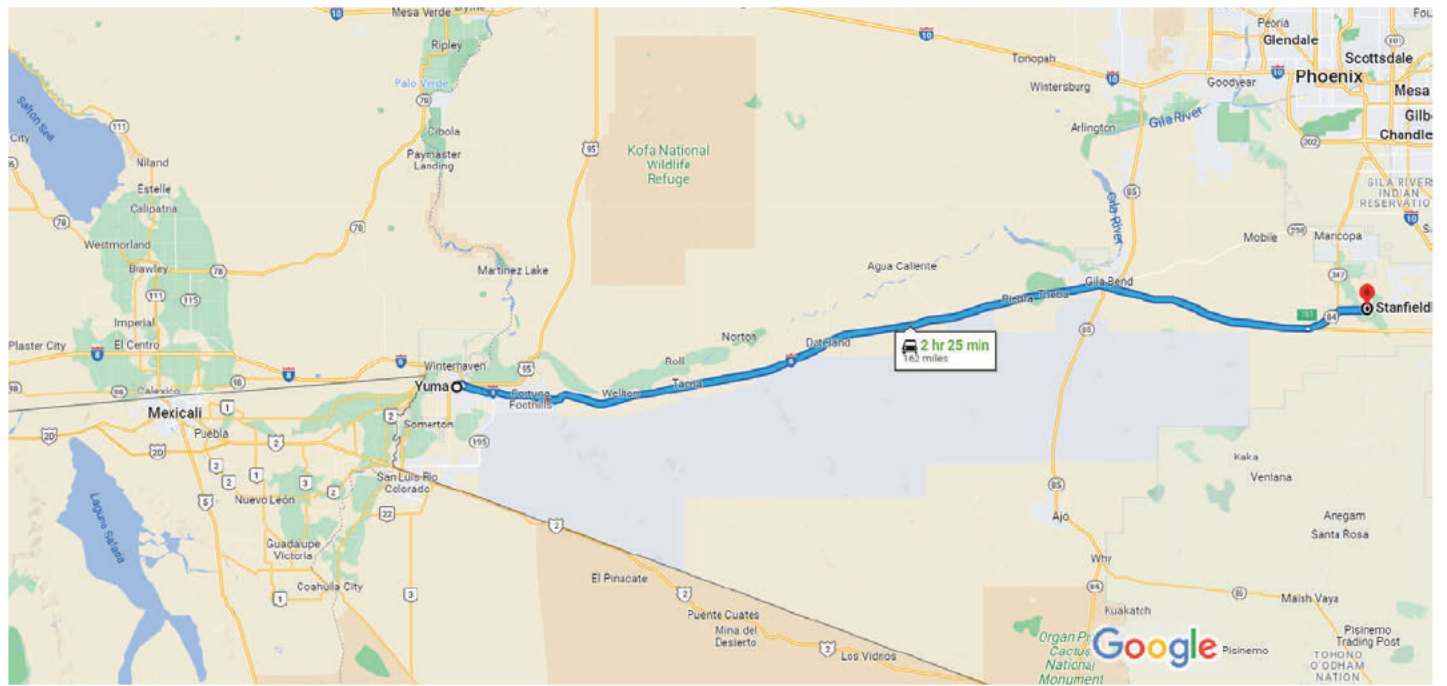
Fastest route now due to traffic conditions

140 miles


Explore Pima

Restaurants Hotels Gas stations Parking Lots More

# EXHIBIT F



Map data ©2023 Google, INEGI 10 mi

 via I-8 E

2 hr 25 min

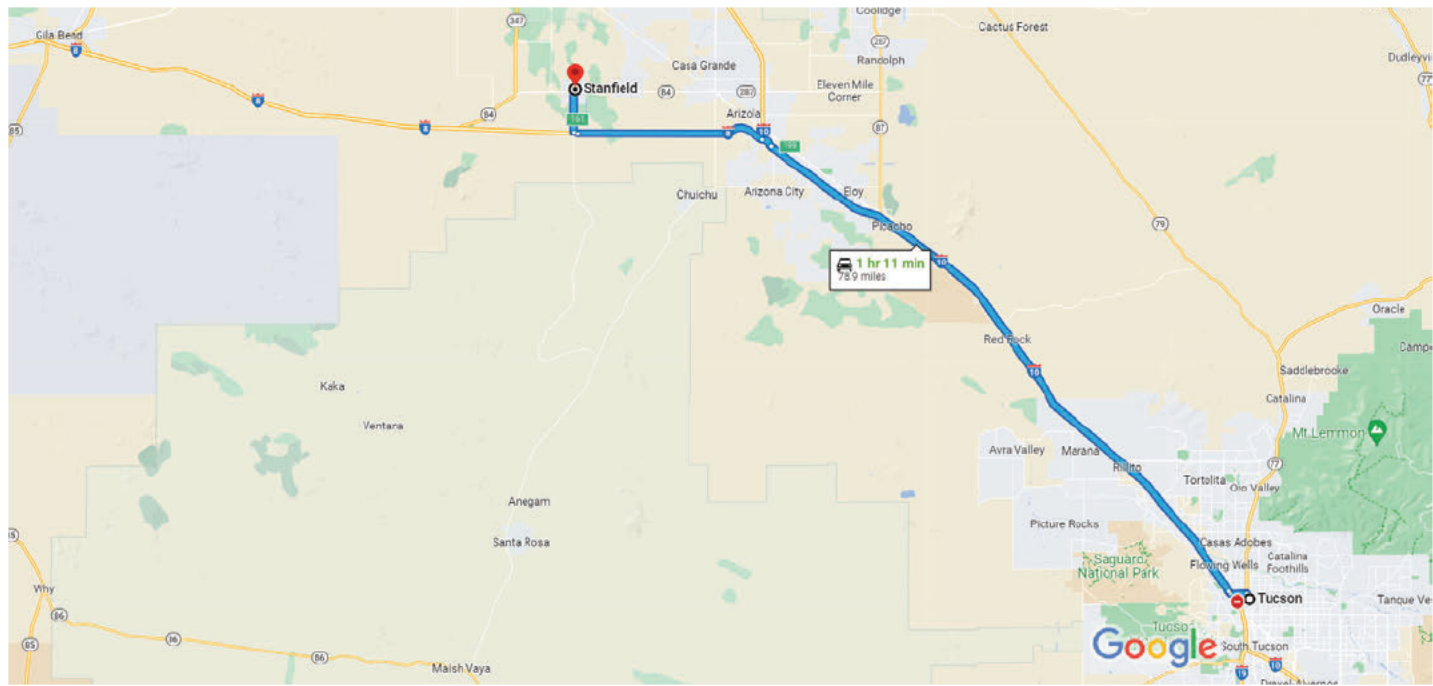
Fastest route now due to traffic conditions

162 miles


Explore Stanfield

Restaurants Hotels Gas stations Parking Lots More

# EXHIBIT G



Map data ©2023 Google 5 mi

 via I-10 W

Fastest route now, avoids road closure on N Freeway

1 hr 11 min

78.9 miles

Explore Stanfield

Restaurants Hotels Gas stations Parking Lots More



# EXHIBIT H